



C-580-837  
Administrative Review  
POR: 1/1/2019 - 12/31/2019  
**Public Document**  
E&C/OIII: JSC

June 17, 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, 2019: Certain Cut-  
To-Length Carbon-Quality Steel 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 cut-to-length carbon-quality steel plate (CTL plate) from the Republic of Korea (Korea). The period of review (POR) is January 1, 2019, through December 31, 2019. We preliminarily determine that Hyundai Steel Company (Hyundai Steel), the sole mandatory respondent in this administrative review, received a *de minimis* net countervailable subsidy rate for the POR.

## II. BACKGROUND

On February 10, 2000, Commerce published the CVD order on CTL plate from Korea in the *Federal Register*.<sup>1</sup> On February 3, 2020, Commerce published a notice of opportunity to request an administrative review of the *Order*.<sup>2</sup> On February 24, 2020, Hyundai Steel timely filed a request for administrative review of itself,<sup>3</sup> and on February 28, 2020, Dongkuk Steel Mill Co., Ltd. (DSM) also self-requested an administrative review.<sup>4</sup> On February 28, 2020, the

---

<sup>1</sup> See *Notice of Amended Final Determination: 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) (*Order*).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 85 FR 5938 (February 3, 2020).

<sup>3</sup> See Hyundai Steel's Letter, "Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea, Case No. C-580-837: Request for Administrative Review," dated February 24, 2020.

<sup>4</sup> See DSM's Letter, "Countervailing Duty Order on Certain Cut-To-Length Carbon-Quality Steel Plate from Korea — Request for Administrative Review," dated February 28, 2020.



petitioners<sup>5</sup> timely filed a request for review of the *Order* for Hyundai Steel and DSM, as well as BDP International and Sung Jin Steel Co., Ltd.<sup>6</sup>

On April 8, 2020, Commerce initiated an administrative review of the CVD order on CTL plate from Korea for the period January 1, 2019, to December 31, 2019 for the four requested companies.<sup>7</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. On April 9, 2020, Commerce released the CBP data and requested comments from interested parties.<sup>8</sup> We did not receive any interested party comments on the CBP data. On May 6, 2020, we selected Hyundai Steel as the sole mandatory respondent in this administrative review,<sup>9</sup> and issued initial questionnaires to the Government of Korea (GOK) and Hyundai Steel.<sup>10</sup>

On May 28, 2020, DSM requested that Commerce examine it as a voluntary respondent and provided responses to Commerce's initial questionnaire.<sup>11</sup> On June 10, 2020, Commerce denied DSM's request to be selected as a voluntary respondent because it would be unduly burdensome and inhibit the timely completion of the review.<sup>12</sup>

On May 28, 2020, Commerce received Hyundai Steel's affiliation questionnaire response,<sup>13</sup> and on June 30, 2020, we received the GOK's initial questionnaire response.<sup>14</sup> On June 29, 2020, Hyundai Steel submitted its response to the remainder of Section III of Commerce's initial questionnaire.<sup>15</sup> On April 6, 2021, we issued supplemental questionnaires to the GOK and Hyundai Steel and received timely responses.<sup>16</sup>

---

<sup>5</sup> The petitioners are ArcelorMittal USA, LLC, Nucor Corporation (Nucor), and SSAB Enterprises, LLC. (collectively, the petitioners).

<sup>6</sup> See Petitioners' Letter, "Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Request for Administrative Review," dated February 28, 2020.

<sup>7</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 19730 (April 8, 2020) (*Initiation Notice*). The *Initiation Notice* lists the company name Hyundai Steel Co., Ltd. (as requested by the petitioners) and Hyundai Steel Company (as requested by the firm itself). For purposes of this memorandum, we are treating both firms as the same company and hereinafter refer to them as Hyundai Steel.

<sup>8</sup> See Memorandum, "Release of Query Results of Customs and Border Protection (CBP) Database," dated April 9, 2020.

<sup>9</sup> See Memorandum, "Countervailing Duty Administrative Review of Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Selection of Respondents for Individual Examination," dated May 6, 2020.

<sup>10</sup> See Commerce's Letter, "Countervailing Duty Questionnaire," dated May 7, 2020.

<sup>11</sup> See DSM's Letter, "Voluntary Response of Dongkuk Steel Mill Co., Ltd., to Questions Concerning Affiliated Companies Required to Respond to the Questionnaire in the Administrative Review of the Countervailing Duty Order on Cut-to-Length Plate from Korea for the 2019 Review Period," dated May 28, 2020.

<sup>12</sup> See Memorandum, "Selection of a Voluntary Respondent," dated June 10, 2020.

<sup>13</sup> See Hyundai Steel's Letter, "Hyundai Steel's Affiliated Companies Questionnaire Response," dated May 28, 2020.

<sup>14</sup> See GOK's Letter, "Response to the Initial Questionnaire," dated June 30, 2020 (GOK IQR).

<sup>15</sup> See Hyundai Steel's Letter, "Hyundai Steel's Initial Questionnaire Response," dated June 29, 2020 (Hyundai Steel IQR).

<sup>16</sup> See GOK's Letter, "Response to the Supplemental Questionnaire," dated April 13, 2021; and Hyundai Steel's Letter, "Hyundai Steel's First Supplemental Questionnaire Response," dated April 13, 2021.

On August 17, 2020, Nucor timely filed new subsidy allegations for this review.<sup>17</sup> On September 3, 2020, Hyundai Steel and the GOK each submitted rebuttal comments.<sup>18</sup> On March 22, 2021, Commerce issued a letter requesting additional information concerning the NSA programs alleged by Nucor,<sup>19</sup> to which Nucor responded on March 24, 2021.<sup>20</sup> On April 26, 2021, Commerce initiated an investigation with respect to two of the alleged NSA programs,<sup>21</sup> and issued questionnaires relating to these programs to the GOK and Hyundai Steel.<sup>22</sup> The GOK and Hyundai Steel filed timely responses to these questionnaires.<sup>23</sup>

On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days.<sup>24</sup> On July 22, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.<sup>25</sup> On January 29, 2021, Commerce extended the deadline for issuance of the preliminary results of this review by 120 days, until June 18, 2021.<sup>26</sup>

### **III. PERIOD OF REVIEW**

The POR is January 1, 2019, through December 31, 2019.

### **IV. NON-SELECTED RATE**

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 Tariff Act of 1930, as amended (the Act). Generally, Commerce looks to section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents which we did not examine in an administrative review. Section 705(c)(5)(A)(i) of

---

<sup>17</sup> See Petitioner's Letter, "Certain Cut-To-Length Carbon-Quality Steel Plate from South Korea: New Subsidy Allegations," (August 17, 2020).

<sup>18</sup> See Hyundai Steel's Letter, "Certain Cut-to-Length Steel Plate from the Republic of Korea, Case No. C-580-837: Rebuttal to Nucor's New Subsidy Allegations," dated September 3, 2020; and the GOK's Letter, "Certain Cut-To-Length Carbon-Quality Steel Plate from the Republic of Korea: Response to Petitioner's New Subsidy Allegations," dated September 3, 2020.

<sup>19</sup> See Commerce's Letter, "Administrative Review of the Countervailing Duty Order on Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea Subject: Supplemental Questionnaire for New Subsidy Allegations," dated March 22, 2021.

<sup>20</sup> See Petitioner's Letter, "Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: New Subsidy Allegation Supplemental Questionnaire Response," dated March 24, 2021.

<sup>21</sup> See Memorandum, "New Subsidy Allegations," dated April 26, 2021.

<sup>22</sup> See Commerce's Letter, "New Subsidy Allegation Questionnaire," dated April 26, 2021, issued to both Hyundai Steel and the GOK.

<sup>23</sup> See Hyundai Steel's Letter, "Hyundai Steel's Electricity New Subsidy Allegation Questionnaire Response," dated May 10, 2021; *see also* Hyundai Steel's Letter, "Hyundai Steel's Carbon Emissions New Subsidy Allegation Questionnaire Response," dated May 17, 2021; and GOK's Letter, "Response to the New Subsidy Allegation Questionnaire," dated May 17, 2021.

<sup>24</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>25</sup> See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 22, 2020.

<sup>26</sup> See Memorandum, "Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review, 2019," dated January 29, 2021.

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, to determine the rate for companies not selected for individual examination, Commerce’s practice is to weight average the net subsidy rates for the selected mandatory companies, excluding rates that are zero, *de minimis*, or based entirely on facts available.<sup>27</sup> 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.

In CVD proceedings, where the number of respondents being individually examined has been limited, Commerce has determined that a “reasonable method” to use to determine the rate applicable to companies that were not individually examined when all the rates of selected mandatory respondents are zero or *de minimis* is to assign to the non-selected respondents the average of the most recently determined rates that are not zero, *de minimis*, or based entirely on facts available.<sup>28</sup> However, if a non-selected respondent has its own calculated rate that is contemporaneous with or more recent than such previous rates, Commerce has found it appropriate to apply that calculated rate to the non-selected respondent, even when that rate is zero or *de minimis*.<sup>29</sup>

In the most recently completed administrative review of this order, we calculated a net subsidy rate of 0.28 percent *ad valorem* for DSM. Therefore, consistent with Commerce’s practice, described above, we are assigning the rate of 0.28 percent *ad valorem* to DSM, based on the companies’ rate calculated in the prior review.<sup>30</sup>

With regard to the two other remaining non-selected companies, for which an individual rate was not calculated, we are assigning the rate of 0.50 percent *ad valorem*, which is the only above *de minimis* rate calculated in the last review.<sup>31</sup>

## V. SCOPE OF THE ORDER

The products covered by the *Order* are certain hot-rolled carbon-quality steel: (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 nominal or actual thickness of not less than 4 mm,

---

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

<sup>28</sup> See *Steel Concrete Reinforcing Bar from the Republic of Turkey: Preliminary Results of Countervailing Duty Administrative Review and Intent To Rescind the Review In Part; 2017*, 85 FR 3030 (January 17, 2020), and accompanying Preliminary Decision Memorandum (PDM) at 7-8, unchanged in *Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2017*, 85 FR 42353 (July 14, 2020), and accompanying Issues and Decision Memorandum (IDM) at 4; see also *Circular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2018*, 86 FR 6866 (January 25, 2021), and accompanying IDM at 3-6..

<sup>29</sup> See, e.g., *Steel Concrete Reinforcing Bar from the Republic of Turkey: Preliminary Results of Countervailing Duty Administrative Review and Intent To Rescind the Review In Part; 2015*, 82 FR 57574, 57575 (December 6, 2017), and accompanying PDM at 5-6, unchanged in *Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2015*, 83 FR 16051 (April 13, 2018).

<sup>30</sup> See *CTL Plate 2018 Final* for the individual rate for DSM.

<sup>31</sup> *Id.*

which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual 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 cut-to-length (not in coils).

Steel products to be included in the scope of the *Order* are of rectangular, square, circular or other shape and of 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”) -- for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in the scope of the *Order* is high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is two percent or less, by weight; and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of this *Order* unless otherwise specifically excluded. The following products are specifically excluded from the *Order*: (1) products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

The merchandise subject to the *Order* is currently classifiable in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by the *Order* is dispositive.

## **VI. 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. The AUL in this proceeding is 15 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System. Commerce notified the respondent of the 15-year AUL in the initial questionnaire and requested data accordingly. No party in this review disputed the allocation period.

For non-recurring subsidies, we applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL. For purposes of the preliminary results, none of the programs we examined required the allocation of benefits over the AUL.

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

In accordance with 19 CFR 351.525(b)(6)(i), Commerce will normally attribute a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) directs that Commerce will attribute subsidies received by certain other companies to the combined sales of those companies if: (1) cross-ownership exists between the companies; and (2) the cross-owned companies produce the subject merchandise; are a holding or parent company of the subject company; produce an input that is primarily dedicated to the production of the downstream product; or transfer a subsidy to a cross-owned 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 section of Commerce's regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations.

The U.S. 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>32</sup>

---

<sup>32</sup> See *Fabrique de Fer de Charleroi S.A. v. United States*, 166 F. Supp. 2d 593, 603 (CIT 2001).

Hyundai Steel reported that, during the POR, none of its affiliates produced subject merchandise and that Hyundai Steel is not a subsidiary of any company. Thus, it has no parent company or holding company. Accordingly, Hyundai Steel responded to the Initial Questionnaire only about Hyundai Steel. Therefore, pursuant to 19 CFR 351.525(b)(6)(ii), we attributed subsidies received by Hyundai Steel to the sales of Hyundai Steel.

## **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>33</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.<sup>34</sup> 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>35</sup>

## **D. Denominators**

In accordance with 19 CFR 351.525(b)(1)-(5), Commerce considers the basis for a respondent's receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent's export sales (where the program is determined to be countervailable as an export subsidy) or total sales (where the program is determined to be countervailable as a domestic subsidy). In the "Programs Preliminarily Determined to Be Countervailable" section below, we describe the denominator used to calculate the subsidy rates.

## **VII. ANALYSIS OF PROGRAMS**

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

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

In our Initial Questionnaire, we asked the GOK and Hyundai Steel to report the receipt of tax exemptions that were contingent upon the firms having facilities located outside of Korean metropolitan areas. In response, Hyundai Steel reported receiving tax exemptions under Article 78 of the RSLTA.<sup>36</sup>

The GOK provides exemptions from local property tax and acquisition tax for manufacturing facilities located in certain designated sites. These exemptions are established by Article 276 of

---

<sup>33</sup> See Hyundai Steel IQR at 13 and Exhibit A-1 for the loan template and Exhibit A-2 Standard Questions and Usage Appendix.

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

<sup>35</sup> See Memorandum, "Calculations for the Preliminary Results: Hyundai Steel Company," dated concurrently with this memorandum (Hyundai Steel Preliminary Calculation Memorandum).

<sup>36</sup> See Hyundai Steel IQR at 23.

the Local Tax Act, Article 13 of the Addenda to the Local Tax Act (for property acquired before 2011), and Article 78 of the RSLTA (for property acquired in 2011 and after).<sup>37</sup> The local governments have jurisdiction over the tax-exempt sites.<sup>38</sup> The tax-exempt sites are designated under Article 16 of the Industrial Sites and Development Act and are limited to industrial complexes outside of the Seoul metropolitan area.<sup>39</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 to Hyundai Steel pursuant to section 771(5)(E) of the Act, and 19 CFR 351.509(a). We further preliminarily determine that the tax exemptions provided under this program are specific under section 771(5A)(D)(iv) of the Act because the subsidies are limited to enterprises located within designated geographical regions. Our findings in this regard are consistent with Commerce's practice.<sup>40</sup>

The tax credits provided under this program are recurring benefits because the taxes are due annually. Thus, the benefit is expensed in the year in which it is received.<sup>41</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 the total sales of Hyundai Steel. On this basis, we preliminarily determine the net countervailable subsidy rate under the Article 78 of the RSTLA during the POR to be 0.01 percent *ad valorem* for Hyundai Steel.<sup>42</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>43</sup> The purpose of this program is to facilitate the enhancement of energy efficiency in business sectors through a deduction from income taxes payable.<sup>44</sup> Commerce determined that this program was countervailable in the prior segment of this proceeding.<sup>45</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

---

<sup>37</sup> See GOK's IQR at 6 and Appendix 3.

<sup>38</sup> See GOK's IQR at 67 and 73.

<sup>39</sup> *Id.* at 71; see also Hyundai Steel IQR at Exhibit C-2 at 1.

<sup>40</sup> See, e.g., *Coated Free Sheet Paper from the Republic of Korea: Notice of Final Affirmative Countervailing Duty Determination*, 72 FR 60639 (October 25, 2007), 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.

<sup>41</sup> See 19 CFR 351.524(a).

<sup>42</sup> See Hyundai Steel Preliminary Calculation Memorandum.

<sup>43</sup> See Hyundai Steel April 9, 2020 IQR at 20.

<sup>44</sup> *Id.* at 18 and footnote 12. Hyundai Steel explains that the Article 25-2 is now regulated under RSTA Article 25(1)(2).

<sup>45</sup> See *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 2018 Prelim*), and accompanying PDM at 9, unchanged in *CTL Plate from Korea 2018* IDM at 6.



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 did not report any changes to this program from the previous review.<sup>46</sup>

Consistent with prior segments of this proceeding,<sup>47</sup> 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>48</sup> Information from the GOK indicates that there were 787,438 corporate tax returns filed in 2019, of which 766 claimed the Article 25(2) tax deduction.<sup>49</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 0.06 percent *ad valorem* under this program.<sup>50</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>51</sup> Under RSTA Article 25(3), taxpayers may apply for a tax deduction from the income tax or corporate tax that is 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>52</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>53</sup> Hyundai Steel claimed the tax deductions under RSTA Article 25(3) in its income tax return for 2018.<sup>54</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>55</sup> We have found this program to be countervailable in previous segments of this proceeding.<sup>56</sup> Consistent with our prior findings, we preliminarily determine that this program is *de facto* specific under section

---

<sup>46</sup> See GOK IQR at 16 and at Appendix 12.

<sup>47</sup> See *CTL Plate 2018 Prelim PDM* at 9, unchanged in *CTL Plate 2018 Final IDM* at 6.

<sup>48</sup> See Memorandum, “Placement of Public Version of Questionnaire Response from the Government of Korea on Record of Review,” dated concurrently with this memorandum (GOK QNR Response Memorandum).

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

<sup>50</sup> See Hyundai Steel Preliminary Calculation Memorandum.

<sup>51</sup> See GOK IQR at 217-219.

<sup>52</sup> *Id.* at 217.

<sup>53</sup> *Id.* at 216.

<sup>54</sup> See Hyundai Steel’s IQR at 9 and Exhibit 40 for the 2018 tax return filed in 2019 and Hyundai Steel’s IQR at 18 and Exhibit B-4 for the deductions on the RSTA Article 25(3).

<sup>55</sup> See GOK IQR at 16.

<sup>56</sup> See *CTL Plate 2018 Prelim PDM* at 10, unchanged in *CTL Plate 2018 Final IDM* at 6.

771(5A)(D)(iii)(I) of the Act, because the actual number of recipients is limited.<sup>57</sup> Information from the GOK indicates that there were 787,438 corporate tax returns filed in 2019, of which 364 claimed the Article 25(3) tax deduction.<sup>58</sup>

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 0.11 percent *ad valorem* under this program.<sup>59</sup>

#### **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.<sup>60</sup> The relevant law authorizing the credit, RSTA Article 26, limits this program to enterprises or industries located within a designated geographical region within the jurisdiction of the authority providing the subsidy for investing in the over-concentration control region of the Seoul Metropolitan area.<sup>61</sup> The GOK reported that Hyundai Steel used this program during the POR.<sup>62</sup>

Hyundai Steel claimed tax credits under this program on the tax return filed during the POR.<sup>63</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 within designated geographical regions. Our findings in this regard are consistent with our prior finding in this proceeding.<sup>64</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 countervailable subsidy rate under this program during the POR to be 0.18 percent *ad valorem* for Hyundai Steel.<sup>65</sup>

---

<sup>57</sup> See GOK QNR Response Memorandum.

<sup>58</sup> *Id.*

<sup>59</sup> See Hyundai Steel Preliminary Calculation Memorandum.

<sup>60</sup> See GOK IQR at 16 and 225.

<sup>61</sup> See GOK IQR at 225.

<sup>62</sup> See GOK IQR at 230.

<sup>63</sup> See Hyundai Steel IQR at 18 and Exhibit B-1 for its tax return, which also contains its revised tax return.

<sup>64</sup> See *CTL Plate 2018 Prelim PDM* at 11, unchanged in *CTL Plate 2018 Final IDM* at 6.

<sup>65</sup> See Hyundai Steel Preliminary Calculation Memorandum.

## 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>66</sup> The program contains two sub-programs, the Demand Response Program for Peak Curtailment, and the Demand Response Program for Electricity Price Curtailment.<sup>67</sup> The former program is designed to decrease the demand for electricity during the peak hours to manage the electricity shortage situations, and the latter is intended to minimize the generation cost through price competition between demand response resources and generation resources.<sup>68</sup> The KPX, which manages the DRR Program, pays intermediary agents called demand managers to manage the program.<sup>69</sup> A demand manager then 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>70</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>71</sup> Second, applicants are required to have a gauge instrument installed that measures electricity consumption every 15 minutes.<sup>72</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>73</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>74</sup> This program is established and operated under Article 31 of the Electricity Business Law and Chapter 12 of the Rules on Operation of Electricity Utility Market.<sup>75</sup>

The 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>76</sup> The GOK noted that there were no changes made to this program during the POR.<sup>77</sup> Consistent with our prior findings, we preliminarily find KEPCO to be an “authority” within the meaning of section

---

<sup>66</sup> See Hyundai Steel IQR at 34 and Exhibit E-2; see also GOK IQR at 130.

<sup>67</sup> See GOK IQR at 130.

<sup>68</sup> *Id.* at 130-131.

<sup>69</sup> See GOK IQR at 131 and 134.

<sup>70</sup> *Id.* at 134; see also Hyundai Steel IQR at 35.

<sup>71</sup> See Hyundai Steel IQR at 35; see also GOK IQR at 138.

<sup>72</sup> See Hyundai Steel IQR at 35.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> See GOK IQR at 132.

<sup>76</sup> See *Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review*; 2018, 86 FR 7063 (January 26, 2021) (*Cold-Rolled from Korea 2018 Prelim*), and accompanying PDM at 12.

<sup>77</sup> See GOK IQR at 144.

771(5)(B) of the Act.<sup>78</sup> Therefore, we determine that a financial contribution in the form of a direct transfer of funds from the 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 did not report any changes for this program that went into effect during the POR.<sup>79</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>80</sup> Our findings in this regard are consistent with Commerce's approach in prior CVD proceedings involving Korea.<sup>81</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 countervailable subsidy rate that Hyundai Steel received under this program to be 0.07 percent *ad valorem* for 2019.<sup>82</sup>

## **6. Discount of Electricity Fee for Energy Storage System**

The Electricity Discounts under Energy-Savings System (ESS) program is designed to reduce the amount of electricity consumption when the electricity load is heavy, *i.e.*, during peak usage periods. According to the GOK, the ESS is used to improve the power usage efficiency by storing the produced electricity in a storage device and supplying it when power is needed.<sup>83</sup> The program is administered by KEPCO and is an integrated electric utility company engaged in the transmission and distribution of substantially all of the electricity in Korea.<sup>84</sup>

For the ESS program, KEPCO provides two types of electricity discounts to participants that operate qualifying systems: (1) a basic discount; and (2) an electricity rate discount. The basic fare discount is calculated by KEPCO using its electricity-supply term and will not exceed the basic fare for the relevant month of the representative customer. The electricity rate discount provides a 50 percent discount from the energy charged to a representative customer that used

---

<sup>78</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>79</sup> See GOK IQR at 144.

<sup>80</sup> See GOK IQR at 143.

<sup>81</sup> See *CTL Plate 2018 Prelim PDM* at 11-13, unchanged in *CTL Plate 2018 Final IDM* at 6; and 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>82</sup> See Hyundai Steel Preliminary Calculation Memorandum.

<sup>83</sup> See GOK IQR at 193.

<sup>84</sup> *Id.*

electric energy in the light load time zone.<sup>85</sup> The discount amount is calculated according to the conditions set forth in KEPCO's Detailed Regulations on Terms and Conditions of Basic Supply.<sup>86</sup> During the POR, Hyundai Steel reported receiving reductions on its energy bill under this program.<sup>87</sup>

We preliminarily determine KEPCO to be an "authority" within the meaning of section 771(5)(B) of the Act. 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. Consistent with the previous review<sup>88</sup> and based on our analysis of this record, this program does not appear to be limited by law to only certain enterprises or industries. 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. The GOK indicates that a small number of firms received benefits under the program during the POR.<sup>89</sup> Based on this information, we preliminarily determine that the benefit recipients under the program are limited in number under section 771(5A)(D)(iii)(I) of the Act.

The benefit conferred on the recipient is the amount of the energy charge/basic fare discounts during the POR. To calculate the net countervailable subsidy rate, we divided the total benefit amount received by Hyundai Steel by its total sales during the POR. On this basis, we preliminarily determine a net subsidy rate for Hyundai Steel of 0.02 percent ad valorem.

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

Commerce preliminarily determines that the programs listed below did not confer a measurable benefit during the POR. Consistent with the established practice, we are not including programs with non-measurable benefits (*i.e.*, calculated rates of less than 0.005 percent) in the respondents' net subsidy rate calculations. Furthermore, because the benefits from these programs are non-measurable, we are not making preliminary determinations regarding financial contribution or specificity.

- Demand Adjustment Program of Emergency Reduction
- RSTLA Article 19
- RSTLA Article 31
- RSTLA Article 46
- RSTLA Article 84
- RSTLA Article 109
- RSTLA Article 112(3)
- Enforcement Decree 137
- Tax Savings: Credit Under RSTA Article 24
- Tax Savings: Credit Under RSTA Article 25

---

<sup>85</sup> *Id.* at 199.

<sup>86</sup> *Id.* at 201

<sup>87</sup> *See* Hyundai Steel IQR at 51.

<sup>88</sup> *See CTL Plate 2018 Final* IDM at 10-12.

<sup>89</sup> *See* GOK IQR at 203.

- Tax Savings: Credit Under RSTA Article 94
- ITIPA: Development of Earthquake Proof Ferroconcrete Using 700MPa Reinforced Bar For the Enhanced Social Construction Security
- ITIPA: Development of Steel Application Technologies Against Ice-Induced Crashworthiness and Arctic Temperature High Toughness
- DAPA: The Ultra-High Hardness Armor Steel for Military Vehicle
- ITIPA: Development of Fire and Seismic Resistant Steels with High Performance for Safety Infrastructures
- ITIPA: Development of High-strength and High Formability of 5000 and 6000 series Aluminum Alloy Sheets Fabricated by Low Cost Process
- ITIPA: Development of CO2 Reduction Type Hybrid Amplification and Reforming Technology for Reduction Iron Making Based on Byproduct Gas
- ITIPA: Development of Reduction Technology of Carbon Dioxide from Ironmaking Process Based on Alternative Iron Source
- ITIPA: Development of Hybrid Ironmaking Process for Lower CO2 Emission
- ITIPA: Development of NOx Removal Catalyst with Wide Temperature Window
- Grants: Modal Shift Program
- Grants: Health Insurance Review and Assessment Service
- Grants: Incentives for Usage of Yeongil Harbor in Pohang City
- Grants: Incentives for Natural Gas Facilities
- Grants: Subsidies for Construction and Operation of Workplace Nursery
- Grants: Subsidies for Hyundai Steel Red Angels Football Club
- Grants: Incentive for Early Scrapping of Old Diesel Vehicle
- Grants: Support for Differential Raw Water Quality
- Grants: Suncheon Harbor
- Grants: LED Efficiency Improvement
- Grants: Tax Credits for Electronic Returns
- Grants: Incentives for Compounding and Prescription Cost Reduction
- Grants: Discount of Electricity Fee for Energy Storage System
- Grants: Harbor Contract Incentive
- KEXIM Loans

### **C. Programs Preliminarily Determined Not to be Used**

- Provision of Land for Less than Adequate Remuneration (LTAR) in the Godae Complex
- Lease Discounts Provided to Companies Operating in Free Economic Zones
- Tax Reductions Granted to Companies Operating in the Godae Complex
- Tax Subsidies Provided to Companies Operating in Free Economic Zones
- Government Grants and Financial Support to Companies Operating in Free Economic Zones
- GOK Infrastructure Investment at Incheon North Harbor
- Provision of Liquefied Natural Gas for LTAR
- GOK Pre-1992 Directed Credit Program
- GOK Directed Credit: 1992-2001 Directed Credit

- Tax Program Under the Restriction of Special Taxation Act (RSTA) and/ or the Tax Reduction and Exemption Control Act (TERCL) - Asset Revaluation (TERCL 56(2))
- Reserve for Investment (Special Case of Tax for Balanced Development Among Areas) (RSTA Article 58) (TERCL Articles 42, 43, 44, and 45)
- One-Shot Act
- Demand Adjustment Program of Designated Period (PDP) (former Demand Adjustment Program of Designated Period) (VRA)
- Demand Adjustment Program of General Management (GM) former: Demand Adjustment Program of Advance Notice (former VCR)
- Bid for Demand Program (BD)
- Electricity Discounts Under the Power Business Law Program
- High-Efficient Electricity Facility Support Program
- Purchase of Electricity Vehicle Support Program
- Childbirth and Childcare Support Program
- Employment Support Program
- Extension of Retirement Support Program
- Co-Existence Project for Large, Medium and Small Enterprises as Energy Companions
- Clean Road Management Support Program
- Environment Evaluation Support Program
- Greenhouse Gas Reduction Support Program
- Reward from the Ministry of Environment
- Factory Dispensary Operation Support Program
- Stop-Smoking Treatment Support Program
- Seoul Guarantee Insurance
- Pohang Steel Art Festival
- Incentives for Usage of Gwangyang Port

#### **D. Programs to be Addressed after the Preliminary Results**

We will issue our findings for the following programs in a post-preliminary decision memorandum:

- Provision of Port Usage Rights at the Port of Incheon<sup>90</sup>
- Reduction for Sewerage Usage Fees
- Electricity for LTAR
- Carbon Emissions Credits

---

<sup>90</sup> Hyundai Steel self-reported this program, *see* Hyundai Steel IQR at 29-32. Commerce has additional questions it intends to ask Hyundai Steel and the GOK before issuing a preliminary determination on this program.

## VIII. RECOMMENDATION

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




\_\_\_\_\_  
Agree



\_\_\_\_\_  
Disagree

6/17/2021

X



Signed by: CHRISTIAN MARSH

\_\_\_\_\_  
Christian Marsh  
Acting Assistant Secretary  
for Enforcement and Compliance