



C-580-888
Administrative Review
POR: 1/1/2019 – 12/31/2019
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July 30, 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
Carbon and Alloy Steel Cut-to-Length Plate from the Republic of
Korea

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on certain carbon and alloy steel cut-to-length plate (CTL plate) from the Republic of Korea (Korea)¹ for the period of review (POR) January 1, 2019, through December 31, 2019. This review covers 42 producers/exporters of subject merchandise. Commerce selected POSCO as the mandatory respondent. We preliminarily find that certain producers/exporters of subject merchandise received *de minimis* countervailable subsidies during the POR.

II. BACKGROUND

On May 25, 2017, Commerce published the *Order* in the *Federal Register*. On May 1, 2020, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the *Order* for the POR.² On May 29, 2020, POSCO, a foreign producer and exporter of subject merchandise, timely requested an administrative review of itself.³ On June 1, 2020, the petitioners⁴ timely requested an administrative review of 42 producers and/or exporters of

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

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 85 FR 25394 (May 1, 2020).

³ See POSCO's Letter, "Request for Administrative Review," dated May 29, 2020.

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



subject merchandise.⁵ On July 10, 2020, Commerce initiated a review of the *Order* with regard to 42 producers and/or exporters for which interested parties requested individual review.⁶

In the *Initiation Notice*, we stated that, in the event we limited the number of respondents selected for individual examination, we intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR.⁷ On July 15, 2020, Commerce released CBP entry data to all interested parties under an administrative protective order, and requested comments on the data and respondent selection.⁸ We received no comments regarding the CBP data or respondent selection. On August 25, 2020, Commerce selected POSCO as the sole mandatory respondent in the administrative review.⁹

On September 3, 2020, Commerce issued the Initial Questionnaire to the Government of Korea (GOK) and POSCO.¹⁰ POSCO submitted its affiliation questionnaire response on October 1, 2020.¹¹ On October 27, 2020, POSCO and its cross-owned affiliates and trading companies submitted their responses to the Initial Questionnaire.¹² On October 30, 2020, the GOK submitted its response to the Initial Questionnaire.¹³ On November 19, 2020, Nucor timely filed three new subsidy allegations.¹⁴ On December 14, 2020, POSCO and the GOK submitted comments on the new subsidy allegations.¹⁵ On January 11, 2021, Nucor submitted further comments regarding the new subsidy allegations.¹⁶ On April 13, 2021, Commerce initiated on two of the three new subsidy allegations.¹⁷ Between January and July 2021, Commerce issued supplemental and NSA questionnaires to POSCO and the GOK to which they timely responded.¹⁸

⁵ See Petitioners' Letter, "Request for Administrative Review," dated June 1, 2020.

⁶ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 41540, 41548 (July 10, 2020) (*Initiation Notice*).

⁷ See *Initiation Notice*, 85 FR at 41540.

⁸ See Memorandum, "Release of Customs Data from U.S. Customs and Border Protection," dated July 15, 2020.

⁹ See Memorandum, "Respondent Selection," dated August 25, 2020 (Respondent Selection Memorandum).

¹⁰ See Letter, "Initial Questionnaire," dated September 3, 2020 (Initial Questionnaire).

¹¹ See POSCO's Letter, "POSCO's Affiliated Companies Response," dated October 1, 2020 (POSCO AQR).

¹² See POSCO's Letter "POSCO's Initial Questionnaire Response," dated October 27, 2020 (POSCO IQR); *see also* POSCO M-Tech's Letter, "POSCO M-Tech Initial Questionnaire Response," dated October 27, 2020 (POSCO M-Tech IQR); POSCO Chemical's Letter, "POSCO Chemical's Initial Questionnaire Response," dated October 27, 2020 (POSCO Chemical IQR); POSCO International's Letter, "POSCO International's Initial Questionnaire Response," dated October 27, 2020 (POSCO International IQR); Sungjin Co., Ltd.'s (Sungjin) Letter, "Sungjin's Initial Questionnaire Response," dated October 27, 2020; POSCO Nippon Steel RHF Joint Venture Co., Ltd.'s (PNR) Letter, "PNR's Initial Questionnaire Response," dated October 27, 2020 (PNR IQR); Pohang Scrap Recycling Distribution Center Co., Ltd.'s (Pohang SRDC) Letter, "Pohang SRDC's Initial Questionnaire Response," dated October 27, 2020 (SRDC IQR); SNP Ltd.'s (SNP) Letter, "SNP's Initial Questionnaire Response," dated February 25, 2021; POSCO Terminal's Letter, "POSCO Terminal Initial Questionnaire Response," dated February 25, 2021 (POSCO Terminal IQR).

¹³ See GOK's Letter, "GOK's Initial Questionnaire Response," dated October 30, 2020 (GOK IQR).

¹⁴ See Nucor's Letter, "New Subsidy Allegations," dated November 19, 2020 (NSA Submission).

¹⁵ See POSCO's Letter, "Response to Nucor's New Subsidy Allegations," dated December 14, 2020; *see also* GOK's Letter, "Response to Nucor's New Subsidy Allegations," dated December 14, 2020.

¹⁶ See Nucor's Letter, "Response to POSCO and the GOK's Comments on New Subsidy Allegations," dated January 11, 2021.

¹⁷ See Memorandum, "Decision Memorandum on New Subsidy Allegations," dated April 13, 2021 (NSA Memorandum).

¹⁸ See POSCO's Letter, "POSCO Supplemental Affiliated Companies Questionnaire Response" dated February 25, 2021 (POSCO Supplemental AQR); *see also* GOK's Letter, "Response to New Subsidy Allegation Questionnaire,"

On July 21, 2020, Commerce tolled all preliminary and final results deadlines in administrative reviews by 60 days.¹⁹ On March 8, 2021, Commerce extended the deadline for the preliminary results of this review to no later than July 30, 2021.²⁰ On July 14 and 28, 2021, Nucor submitted pre-preliminary comments.²¹ On July 19, 2021, POSCO submitted rebuttal comments.²²

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

III. SCOPE OF THE *ORDER*

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

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

dated April 27, 2021 (GOK NSA QR); GOK’s Letter, “GOK’s Supplemental Questionnaire Response,” dated June 22, 2021 (GOK SQR); GOK’s Letter, “GOK’s Second Supplemental Questionnaire Response,” dated July 21, 2021 (GOK 2SQR); GOK’s Letter, “GOK’s Third Supplemental Questionnaire Response,” dated July 21, 2021; POSCO’s Letter, “POSCO’s Electricity New Subsidy Allegation Questionnaire Response,” dated April 28, 2021 (POSCO ELEC NSA QR); POSCO’s Letter, “POSCO’s Carbon Emissions New Subsidy Allegation Questionnaire Response,” dated May 7, 2021 (POSCO CEP NSA QR); POSCO’s Letter, “POSCO’s Supplemental Questionnaire Response,” dated May 11, 2021; POSCO Chemical’s Letter, “POSCO Chemical’s Supplemental Questionnaire Response,” dated May 19, 2021 (POSCO Chemical SQR); POSCO’s Letter, “POSCO’s Response to Question 3 of Second Supplemental Questionnaire,” dated May 24, 2021; POSCO’s Letter, “POSCO’s Third Supplemental Questionnaire Response,” dated July 12, 2021 (POSCO 3SQR); Sungjin’s Letter, “Sungjin’s Supplemental Questionnaire Response,” dated July 12, 2021; SNP’s Letter, “SNP’s Supplemental Questionnaire Response,” dated July 12, 2021.

¹⁹ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,” dated July 21, 2020.

²⁰ See Memorandum, “Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review; 2019,” dated March 8, 2021.

²¹ See Nucor’s Letter, “Pre-Preliminary Comments,” dated July 14, 2021; *see also* Nucor’s Letter, “Comments on the Korean Government’s 2nd Supplemental Questionnaire Response,” dated July 28, 2021. Because these comments were filed in close proximity to the preliminary results deadline, we will consider them for the final results.

²² See POSCO’s Letter, “POSCO’s Response to Nucor’s Pre-Preliminary Comments,” dated July 19, 2021. Because these comments were filed in close proximity to the preliminary results deadline, we will consider them for the final results.

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

Steel products included in the scope of this *Order* are products in which: (1) iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

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

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

- (1) products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances;
- (2) military grade armor plate certified to one of the following specifications or to a specification that references and incorporates one of the following specifications:
 - MIL-A-12560,
 - MIL-DTL-12560H,
 - MIL-DTL-12560J,
 - MIL-DTL-12560K,
 - MIL-DTL-32332,
 - MIL-A-46100D,
 - MIL-DTL-46100-E,
 - MIL-46177C,
 - MIL-S-16216K Grade HY80,
 - MIL-S-16216K Grade HY100,
 - MIL-S-24645A HSLA-80;
 - MIL-S-24645A HSLA-100,
 - T9074-BD-GIB-010/0300 Grade HY80,
 - T9074-BD-GIB-010/0300 Grade HY100,

- T9074-BD-GIB-010/0300 Grade HSLA80,
- T9074-BD-GIB-010/0300 Grade HSLA100, and
- T9074-BD-GIB-010/0300 Mod. Grade HSLA115,

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

- (3) stainless steel plate, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;
- (4) CTL plate meeting the requirements of ASTM A-829, Grade E 4340 that are over 305 mm in actual thickness;
- (5) Alloy forged and rolled CTL plate greater than or equal to 152.4 mm in actual thickness meeting each of the following requirements:
 - (a) Electric furnace melted, ladle refined & vacuum degassed and having a chemical composition (expressed in weight percentages):
 - Carbon 0.23-0.28,
 - Silicon 0.05-0.20,
 - Manganese 1.20-1.60,
 - Nickel not greater than 1.0,
 - Sulfur not greater than 0.007,
 - Phosphorus not greater than 0.020,
 - Chromium 1.0-2.5,
 - Molybdenum 0.35-0.80,
 - Boron 0.002-0.004,
 - Oxygen not greater than 20 ppm,
 - Hydrogen not greater than 2 ppm, and
 - Nitrogen not greater than 60 ppm;
 - (b) With a Brinell hardness measured in all parts of the product including mid thickness falling within one of the following ranges:
 - (i) 270-300 HBW,
 - (ii) 290-320 HBW, or
 - (iii) 320-350HBW;
 - (c) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.0, C not exceeding 0.5, D not exceeding 1.5; and
 - (d) Conforming to ASTM A578-S9 ultrasonic testing requirements with acceptance criteria 2 mm flat bottom hole;

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

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

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

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

(c) Having the following mechanical properties:

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

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

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

(e) Conforming to magnetic particle inspection in accordance with AMS 2301;

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

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

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

At the time of the filing of the petition, there was an existing countervailing duty order on certain cut-to-length carbon-quality steel plate from Korea. *See Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea*, 64 FR 73176 (December 29, 1999), as amended, 65 FR 6587 (February 10, 2000) (*1999 Korea CVD Order*). The scope of the countervailing duty order with regard to cut-to-length plate from Korea covers only: (1) subject cut-to-length plate not within the physical description of cut-to-length carbon quality steel plate in the *1999 Korea CVD Order* regardless of producer or exporter; and (2) cut-to-length plate produced and/or exported by those companies that were excluded or revoked from the *1999 Korea CVD Order* as of April 8, 2016. The only revoked or excluded company is Pohang Iron and Steel Company, also known as POSCO.

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

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

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

IV. PERIOD OF REVIEW

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

V. DIVERSIFICATION OF KOREA’S ECONOMY

On July 8, 2021, Commerce placed the Korean Diversification Memo on the record.²³ This information reflects a wide diversification of economic activities in Korea.²⁴ This information indicates that Korea has 19 industry groupings with a broad range of distinctly different types of economic activities within these groupings.

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

We received a timely filed no-shipment certification from Hyundai Steel Company (Hyundai Steel).²⁵ Commerce issued a no-shipment inquiry to CBP requesting any information that might contradict these no-shipment claims.²⁶ We have not received, to date, information from CBP that contradicts Hyundai Steel’s claim of no sales, shipments, or entries of subject merchandise to the United States during the POR. Because there is no evidence on the record that contradicts Hyundai Steel’s claims, we preliminarily intend to rescind the review with respect to Hyundai Steel. Absent any evidence of shipments being placed on the record, pursuant to 19 CFR 351.213(d)(3), we intend to rescind the administrative review of Hyundai Steel in the final results of review.

VII. RATE FOR NON-EXAMINED COMPANIES

The statute and Commerce’s regulations do not address the establishment of a rate to be applied to respondents not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. Generally, Commerce looks to section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in

²³ See Memorandum, “Placement of Republic of Korea Economic Diversification Memorandum on the Record,” dated July 8, 2021.

²⁴ See Memorandum, “The Extent of Diversification of Economic Activities in the Republic of Korea (South Korea) for the Purpose of Determining Specificity of a Domestic Subsidy for Countervailing Duty (CVD) Purposes,” dated September 13, 2018 (Korea Diversification Memo).

²⁵ See Hyundai Steel’s Letter, “Notice of No Sales,” dated August 6, 2020.

²⁶ See Memorandum, “No Shipment Inquiry for Hyundai Steel Company,” dated June 22, 2021.

an investigation, for guidance when calculating the rate for respondents which are not individually examined in an administrative review. Section 705(c)(5)(A) of the Act articulates a preference that we are not to calculate an all-others rate using rates which are zero, *de minimis*, or based entirely on facts available. Accordingly, Commerce’s practice in determining the rate for respondents not selected for individual examination has been to average the weighed-average net subsidy rates for the selected companies, excluding rates that are zero, *de minimis*, or based entirely on facts available.²⁷ Section 705(c)(5)(A)(ii) of the Act also provides that, where all rates are zero, *de minimis*, or based entirely on facts available, we may use “any reasonable method” for establishing the all others rate, including averaging the estimated weighted-average net subsidy rates determined for the exporters and producers individually investigated.

In these preliminary results, we find that POSCO, the sole mandatory respondent, received *de minimis* countervailable subsidies during the POR. In past proceedings, including the prior administrative review of the *Order*, Commerce determined that a “reasonable method” to use when the rates of the selected mandatory respondents are all zero or *de minimis* is to assign the non-selected respondents the average of the most recently determined rates that are not zero, *de minimis*, or based entirely on facts available (which may be from a prior review, a new shipper review, or the investigation).²⁸ However, if a non-selected respondent has its own calculated rate that is contemporaneous with or more recent than such previous margins, Commerce found it appropriate to apply that calculated rate to the non-selected respondent, including when that rate is zero or *de minimis*.²⁹ In this and all prior segments of this proceeding, POSCO was the sole company individually examined.³⁰

In the respondent selection memorandum issued in this review, we noted that, out of all the companies for which a review was requested, the CBP data indicated that POSCO accounted for the vast majority of the CTL plate entered for consumption into the United States during the POR, and that based on the record, selecting POSCO would “account for the overwhelming majority of the POR entries.”³¹ Likewise, as noted above, in the previous reviews of the *Order* and in the *CTL Plate Investigation*, we selected POSCO as the sole mandatory respondent capturing an overwhelming majority of imports. Thus, the only other calculated rates from prior segments of this proceeding (*i.e.*, the *CTL Plate Investigation* and two subsequent administrative

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

²⁸ See, e.g., *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).

²⁹ *Id.*

³⁰ See *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2018*, 86 FR 15184 (March 22, 2021) (*CTL Plate from Korea AR2 Final*), and accompanying Issues and Decision Memorandum (IDM); see also *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Final Results and Partial Rescission of Countervailing Duty Administrative Review, 2017*, 85 FR 2710 (January 16, 2020) (*CTL Plate from Korea AR1 Final*), and accompanying IDM; *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 82 FR 16341 (April 4, 2017) (*CTL Plate Investigation Final*), and accompanying IDM. We note that in the *CTL Plate Investigation*, Commerce selected two mandatory respondents, POSCO and Daewoo International Corporation, but during the course of the investigation, Commerce determined that Daewoo International Corporation was POSCO’s cross-owned trading company and considered POSCO the sole mandatory respondent. Daewoo International Corporation subsequently changed its name to POSCO Daewoo Corporation and is currently named POSCO International.

³¹ See Respondent Selection Memorandum at 5.

reviews) are those calculated for POSCO. Furthermore, while POSCO was assigned above *de minimis* net countervailable subsidy rates in both the *CTL Plate Investigation* and *CTL Plate from Korea AR1*, those rates were partially based on adverse facts available and facts otherwise available, respectively.³² As explained above, when the rates of selected mandatory respondents are all zero or *de minimis*, Commerce's practice has been to assign non-selected respondents the average of the most recently determined rates that are not zero, *de minimis*, or based entirely on facts available (which may be from a prior review, a new shipper review, or the investigation). In this proceeding, however, the facts are distinct from most other CVD proceedings in that POSCO is the only company that has ever been selected for individual examination and assigned an individual rate in all segments of the proceeding to date.

In CVD proceedings, Commerce's concern is with government subsidization and the extent to which different companies may use or benefit from the subsidy programs. Where the CVD case records show a history of subsidization for a certain respondent, there is a reasonable basis to conclude that the respondent continues to receive and benefit from that subsidy. Therefore, if the mandatory respondents in a given segment are found not to use or not to benefit from a certain subsidy, their rates may not be reflective of the subsidy rate for another company not currently under individual examination but found in a prior segment to have benefited from the same subsidy. This would be particularly true where the mandatory respondents in the current segment have *de minimis* rates under that program, but the other company was significantly above *de minimis* in the prior segment for the same program. None of these factual scenarios are present in this or prior segments under the *Order*. As noted, in this proceeding to date, POSCO is, and has always been, the only company subject to individual examination and for which a CVD rate was calculated based on its usage of the subsidy programs under examination. Given that POSCO's rate represents the *only* level of subsidization for the industry, for purposes of this review, we find it appropriate to preliminarily assign POSCO's calculated *de minimis* net countervailable subsidy rate to the non-selected companies. Our decision here is consistent with the prior segment of this proceeding.³³

VIII. SUBSIDIES VALUATION INFORMATION

A. Allocation Period

For non-recurring subsidies, we applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount received from a subsidy approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the average useful life (AUL). In the instant review, we are relying on a 15-year AUL.³⁴

³² See *CTL Plate Investigation Final IDM* at "Use of Facts Otherwise Available and Adverse Inferences;" see also *CTL Plate from Korea AR1 Final IDM* at "Use of Facts Otherwise Available."

³³ See *CTL Plate from Korea AR2 Final IDM* at 8-10.

³⁴ See U.S. Internal Revenue Service Publication 946 (2019), "How to Depreciate Property," at Table B-2: Table of Class Lives and Recovery Periods.

B. Attribution of Subsidies

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

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. The Court of International Trade (CIT) has 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.³⁵ Regarding an input supplier, the *CVD Preamble* also explains that “{t}he main concern we have tried to address is the situation where a subsidy is provided to an input supplier whose production is dedicated almost exclusively to the production of a higher value added product – the type of input product that is merely a link in the overall production chain.”³⁶

For POSCO, we are preliminarily attributing subsidies received by POSCO to its own sales in accordance with 19 CFR 351.525(b)(6)(i). POSCO reported that it had five Korean trading companies through which it exported some subject merchandise, one of which (POSCO International) is a cross-owned company.³⁷ Three of the trading companies, POSCO International, Sungjin, and SNP, provided questionnaire responses. Pursuant to 19 CFR 351.525(c), we cumulated the benefits from subsidies provided to POSCO International, Sungjin, and SNP with benefits from subsidies provided to POSCO based on the ratio of the trading company's exports of subject merchandise to the United States produced by POSCO during the POR.

In addition to the three aforementioned trading companies, POSCO also reported that it made some export sales of CTL plate to the United States through two other trading companies, but that its subject merchandise export volume through these trading companies was a negligible amount of its total exports of subject merchandise to the United States during the POR.³⁸ Commerce did not require POSCO to submit a complete questionnaire response for these two companies; given the negligible quantities of subject merchandise exported by these companies,

³⁵ See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

³⁶ See *Countervailing Duties*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

³⁷ See POSCO AQR at 5 and 11.

³⁸ *Id.* at 4-5 and Exhibit 1; see also POSCO Supplemental AQR at 1-2 and Exhibit 20.

any subsidies they may have received would have no meaningful impact on POSCO's overall subsidy margin under Commerce's practice.³⁹

We identified four cross-owned companies that supplied POSCO with raw materials during the POR that were primarily dedicated to the downstream product produced by POSCO: POSCO Chemical, PNR, POSCO M-Tech, and POSCO Terminal. Each of these companies supplied inputs to POSCO for the production of the downstream product.⁴⁰ Pursuant to 19 CFR 351.525(b)(6)(iv), we preliminarily attributed subsidies received by these cross-owned input suppliers to the respective input supplier's total sales plus the sales of POSCO, net of intercompany sales. POSCO additionally provided a response from Pohang SRDC, which did not supply any inputs to POSCO during the POR.⁴¹ However, Pohang SRDC is a processor of steel scrap and identified that it "processed inputs that could have been used by POSCO... to produce subject merchandise," during the POR.⁴² As a processor of steel scrap, Pohang SRDC's business activities can reasonably be considered dedicated almost exclusively to the production of a higher value product under the input supplier attribution rule outlined in 19 CFR 351.525(b)(6)(iv) and the *CVD Final Rule*.⁴³ As such, we preliminarily find that Pohang SRDC was POSCO's cross-owned input supplier during the POR.

POSCO also reported purchasing inputs used in the production of subject merchandise from POSCO Plantec (Plantec) through POSCO International, as well as certain business proprietary services and fixed assets associated with those services, directly from POSCO Plantec.⁴⁴ On November 19, 2020, Nucor Corporation (Nucor) filed new subsidy allegations alleging that POSCO Plantec received subsidies attributable to POSCO as a cross-owned input supplier.⁴⁵ However, Commerce clarified that it was already examining POSCO Plantec as a cross-owned input supplier.⁴⁶

For the reasons described below, we preliminarily determine that record evidence shows that the production of POSCO Plantec's input is not primarily dedicated to the production of the downstream product, including the subject merchandise. As noted in POSCO's financial statements, POSCO Plantec's category of business is the construction of industrial plants; the business activities of POSCO Plantec are not primarily dedicated to the production of downstream subject merchandise.⁴⁷ Further, the record shows that the types of services and related fixed assets that POSCO Plantec provided for POSCO are not a part of steel production that is dedicated primarily to the production of a higher value-added product.⁴⁸ Rather,

³⁹ See, e.g., *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Preliminary Negative Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 81 FR 2172 (January 15, 2016), and accompanying Preliminary Decision Memorandum (PDM) at 10 (excusing Hyundai Steel Company from reporting on behalf of trading companies with negligible quantities of exports), unchanged in *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Affirmative Determination*, 81 FR 53439 (August 12, 2016).

⁴⁰ See POSCO AQR at 11-12 and Exhibit 5.

⁴¹ *Id.* at Exhibit 2 at Note 1(e); see also SRDC IQR at 1 and Exhibit 4.

⁴² See SRDC IQR at 5.

⁴³ See *Countervailing Duties: Final Rule*, 63 FR 65348, 65378 (November 25, 1998) (*CVD Final Rule*).

⁴⁴ See POSCO Supplemental AQR at 9-12 and Exhibit 27.

⁴⁵ See NSA Submission at 19-31.

⁴⁶ See NSA Memorandum at 20.

⁴⁷ See POSCO AQR at Exhibit 2 at Note 1(e).

⁴⁸ See POSCO Supplemental AQR at Exhibit 27.

POSCO's purchases of fixed assets and services from POSCO Plantec during the POR were for maintenance, repair and operation of machinery.⁴⁹

According to the *CVD Preamble*:

Where we are dealing with input products that are not primarily dedicated to the downstream products, however, it is not reasonable to assume that the purpose of a subsidy to the input product is to benefit the downstream product. For example, it would not be appropriate to attribute subsidies to a plastics company to the production of cross-owned corporations producing appliances and automobiles. Where we are investigating products such as appliances and automobiles, we will rely on the upstream subsidy provision of the statute to capture any plastics benefits which are passed to the downstream producer.⁵⁰

As the record indicates, the fixed assets and services POSCO Plantec provided to POSCO during the POR were not primarily dedicated to the steel production process. Therefore, we preliminarily determine that the production of POSCO Plantec's "input" is not primarily dedicated to the production of the downstream product, including the subject merchandise. Accordingly, we preliminarily find that regardless of whether POSCO and POSCO Plantec are cross-owned, POSCO Plantec does not meet the criteria for a cross-owned input supplier under 19 CFR 352.525(b)(6)(iv). Consistent with our findings in the prior segment of this proceeding, which has a similar record of inputs, we preliminarily will not attribute subsidies received by POSCO Plantec to the combined sales of POSCO and POSCO Plantec.⁵¹

C. Denominators

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, Commerce considers the basis for the respondent's receipt of benefits under each program. As discussed in further detail below, where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total sales as the denominator. Similarly, where the program has been found to be countervailable as an export subsidy, we used the recipient's total export sales as the denominator. In the sections below, we describe the denominators we used to calculate the countervailable subsidy rates for the various subsidy programs.

IX. BENCHMARKS AND INTEREST RATES

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

During the POR, POSCO International reported receiving short-term loans for export receivables from the Korea Development Bank (KDB).⁵² POSCO International provided a three-month U.S. dollar-denominated LIBOR {London Inter-Bank Offered Rate} rate from the Bank of Korea for

⁴⁹ *Id.*

⁵⁰ See *CVD Preamble*, 63 FR at 65401.

⁵¹ See *CTL Plate from Korea AR2 Final IDM* at Comment 2; see also *Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2017*, 85 FR 38361 (June 26, 2020) (*Cold-Rolled Steel from Korea*), and accompanying IDM at Comment 2.

⁵² See POSCO International IQR at 26 and Exhibit C-7.

the purpose of identifying an interest rate benchmark.⁵³ We preliminarily find that this interest rate is appropriate to use to benchmark interest rates.⁵⁴ This approach is consistent with 19 CFR 351.505(a)(2)(iv) and our practice.

B. Short-Term Korean Won (KRW)-Denominated Loans

During the POR, POSCO Chemical and POSCO International reported receiving short-term loans from the KDB.⁵⁵ POSCO International provided three-month KRW-denominated KORIBOR {Korean Inter-Bank Offered Rate} rates from the Bank of Korea for the purpose of identifying an interest rate benchmark.⁵⁶ We preliminarily find that these interest rates are appropriate to use to benchmark interest rates.⁵⁷ This approach is consistent with 19 CFR 351.505(a)(2)(iv) and our practice.

C. Long-Term KRW and U.S. Dollar-Denominated Loans and Credit Guarantees

During the POR, POSCO, POSCO International, and POSCO Chemical had outstanding long-term Korean won and U.S. dollar loans from government-owned banks.⁵⁸ As benchmarks for KRW-denominated long-term loans and as discount rates, we used, where available, the company-specific interest rates on the company's comparable commercial, KRW-denominated loans. If such loans were not available, we used, where available, the company-specific corporate bond rate on the company's public and private bonds, as we have determined that the GOK did not control the Korean domestic bond market after 1991.⁵⁹ This is the approach Commerce has taken in several prior CVD proceedings involving Korea, including the prior segments in this proceeding.⁶⁰ Specifically, in those cases, we determined that, absent company-specific, commercial long-term loan interest rates, the KRW-denominated corporate bond rate is the best indicator of the commercial long-term borrowing rates for KRW-denominated loans in Korea, because it is widely accepted as the market rate in Korea.⁶¹

⁵³ *Id.* at Exhibit C-8.

⁵⁴ See Memorandum, "Preliminary Results Calculation Memorandum for POSCO," dated concurrently with this memorandum (POSCO Preliminary Calculation Memorandum).

⁵⁵ See POSCO International IQR at Exhibit C-9; see also POSCO Chemical IQR at Exhibit C-4.

⁵⁶ See POSCO International IQR at Exhibit C-8.

⁵⁷ See POSCO Preliminary Calculation Memorandum.

⁵⁸ See, e.g., POSCO IQR at Exhibit C-17; POSCO International IQR at Exhibit C-13; POSCO Chemical IQR at Exhibit C-1.

⁵⁹ See, e.g., *Final Negative Countervailing Duty Determination: Stainless Steel Plate in Coils from the Republic of Korea*, 64 FR 15530, 15531 (March 31, 1999) and "Analysis Memorandum on the Korean Domestic Bond Market" (March 9, 1999).

⁶⁰ *Id.*; see also *Final Affirmative Countervailing Duty Determination: Structural Steel Beams from the Republic of Korea*, 65 FR 41051 (July 3, 2000), and accompanying IDM at "Benchmark Interest Rates and Discount Rates;"; *Final Affirmative Countervailing Duty Determination: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 37122 (June 23, 2003), and accompanying IDM at "Discount Rates and Benchmark for Loans"; and *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review and Intent to Rescind the Review, in Part; 2017*, 84 FR 34123 (July 17, 2019) (*CTL Plate from Korea AR1 Prelim*), and accompanying PDM at 13-14, unchanged in *CTL Plate from Korea AR1 Final IDM*; *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review and Intent to Rescind the Review, in Part; 2018*, 85 FR 45185 (July 27, 2020) (*CTL Plate from Korea AR2 Prelim*), and accompanying PDM at 14, unchanged in *CTL Plate from Korea AR2 Final IDM*.

⁶¹ See *Final Affirmative Countervailing Duty Determinations and Final Negative Critical Circumstances Determinations: Certain Steel Products from Korea*, 58 FR 37328, 37345-37346 (July 9, 1993).

Where company-specific rates were not available, we used the national average of the yields on three-year, KRW-denominated corporate bonds, published in the International Monetary Fund's *International Financial Statistics*. This approach is consistent with 19 CFR 351.505(a)(3)(ii) and prior CVD proceedings involving Korea, including the prior segment in this proceeding.⁶² In accordance with 19 CFR 351.505(a)(2)(i), our benchmarks take into consideration the structure of the government-provided loans. For countervailable fixed-rate loans, pursuant to 19 CFR 351.505(a)(2)(iii), we used benchmark rates issued in the same year that the government loans were issued.

C. Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), we used, as our discount rate, the long-term interest rate calculated according to the methodology described above for the year in which the government provided non-recurring subsidies. The interest rate benchmarks and discount rates used in our preliminary calculations are provided in POSCO's Preliminary Calculation Memorandum.⁶³

X. ANALYSIS OF PROGRAMS

A. Programs Preliminarily Determined to Be Countervailable

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

POSCO, POSCO Chemical, POSCO M-Tech, POSCO International, and POSCO Terminal reported receiving benefits under RSLTA Article 78(4) during the POR.⁶⁴ RSLTA 78(4) provides acquisitions and property tax exemptions available to non-project implementers for properties in an industrial complex that are acquired by construction or expansion or acquired after substantial repair of an industrial building. Commerce previously found this program countervailable.⁶⁵

The GOK confirms that there were no changes to the program during the POR.⁶⁶ Consistent with *Magnola Metallurgy*, we continue to find that the tax exemptions provided under this

⁶² See, e.g., *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying IDM at "Benchmark for Long Term Loans"; see also *CTL Plate from Korea AR2 Prelim PDM* at 14, unchanged in *CTL Plate from Korea AR2 Final IDM*.

⁶³ See POSCO Preliminary Calculation Memorandum.

⁶⁴ See POSCO IQR at 17-20 and Exhibit A-3; see also POSCO Chemical IQR at 14-15 and Exhibit A-2; POSCO M-Tech IQR at 12 and Exhibit A-2; POSCO International IQR at 17 and Exhibit A-2; POSCO Terminal IQR at 13 and Exhibit A-1.

⁶⁵ Commerce's practice, as affirmed by the United States Court of Appeals for the Federal Circuit, is not to revisit financial contribution and specificity determinations made in a prior segment of the same proceeding, absent the presentation of new facts or evidence. See *Magnola Metallurgy, Inc. v. United States*, 508 F.3d 1349, 1353-56 (Fed. Cir. 2007) (*Magnola Metallurgy*); see also *CTL Plate from Korea AR1 Prelim PDM* at 24-25, unchanged in *CTL Plate from Korea AR1 Final*; see also *CTL Plate from Korea AR2 Prelim PDM* at 19, unchanged in *CTL Plate from Korea AR2 Final IDM*.

⁶⁶ See GOK IQR at 7.

program are specific under section 771(5A)(D)(iv) of the Act because the subsidies are limited to enterprises located within designated geographical regions within the jurisdiction of the authority(ies) providing the subsidy. We also continue to find that this program results in a financial contribution from the GOK to recipients in the form of revenue forgone, as described in section 771(5)(D)(ii) of the Act.

The benefit conferred on the recipient is the difference between the amount of taxes it paid and the amount of taxes that it would have paid in the absence of this program, as outlined by section 771(5)(E) of the Act and as described in 19 CFR 351.509(a). The tax exemptions provided under this program are recurring benefits because the taxes are due annually. Thus, consistent with 19 CFR 351.524(a), the benefit is expensed in the year in which it is received. To calculate the benefit, we subtracted the amount of taxes paid by the firms from the amounts that would have been paid absent the program. To calculate the net subsidy rate, we divided the total benefit by the appropriate sales denominator, consistent with the “Attribution of Subsidies” section above. On this basis, we preliminarily determine that POSCO received a net countervailable subsidy at a rate of 0.01 percent *ad valorem*.⁶⁷

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

POSCO reported receiving benefits under RSTA Article 10-2 during the POR.⁶⁸ The Ministry of Economy and Finance (MOEF) administers this program, which is enforced by the National Tax Service (NTS).⁶⁹ The program provides a deduction equivalent to the research and development contribution from gross income to qualifying taxpayers.⁷⁰ Commerce previously found this program countervailable.⁷¹

The GOK confirms that there were no changes to this program during the POR beyond extending the program until December 31, 2021.⁷² Thus, consistent with *Magnola Metallurgy*, we continue to find this program *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because the actual number of recipients of the subsidy for RSTA Article 10 was limited to 1,450 recipients out of 740,215 corporate taxpayers during 2019.⁷³ We further continue to find that this program results in a financial contribution from the GOK to recipients in the form of revenue forgone, as described in section 771(5)(D)(ii) of the Act.

The benefit conferred on the recipient is the difference between the amount of taxes it paid and the amount of taxes that it would have paid in the absence of this program, as contemplated by section 771(5)(E) of the Act and as described in 19 CFR 351.509(a). The tax reductions provided under this program are recurring benefits because the taxes are due annually. Thus, consistent with 19 CFR 351.524(a), the benefit is expensed in the year in which it is received. To calculate the benefit, we subtracted the amount of taxes paid by POSCO from the amounts

⁶⁷ See POSCO Preliminary Calculation Memorandum and the accompanying Excel spreadsheet.

⁶⁸ See POSCO IQR at 20 and Exhibit A-5.

⁶⁹ See GOK SQR at Exhibit A-14.

⁷⁰ *Id.* at Exhibit A-23.

⁷¹ See *CTL Plate from Korea AR1 Final* IDM at 12 and Comment 2, and *CTL Plate from Korea AR2 Prelim* PDM at 20, unchanged in *CTL Plate from Korea AR2 Final* IDM; see also *Magnola Metallurgy*, 508 F. 3d at 1353-56.

⁷² See GOK SQR at Exhibit A-23.

⁷³ *Id.* at Exhibit A-25.

that would have been paid absent the program. To calculate the net subsidy rate, we divided the total benefit by the appropriate sales denominator, consistent with the “Attribution of Subsidies” section above. On this basis, we preliminarily determine that POSCO received a net countervailable subsidy at a rate of 0.02 percent *ad valorem*.⁷⁴

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

POSCO, POSCO Chemical, and POSCO International reported receiving benefits under the Demand Response Market Program for Peak Curtailment during the POR.⁷⁵ According to Article 12 of the Rules on Operation of Electric Utility Market (ROEUM), KEPCO administers this program in conjunction with the Korea Power Exchange (KPX).⁷⁶ Under this program, KPX pays multiple private Demand Management Business Operators, also called “aggregators,” which have direct, contractual relationships with end users of the program.⁷⁷ End users receive payments from those aggregators. Commerce previously determined that this program was countervailable.⁷⁸

The GOK confirms that there were no changes to the program during the POR.⁷⁹ The GOK submits that a limited number of companies were approved for the assistance under this program in 2019, though participation in it is available to all entities in Korea.⁸⁰ Thus, consistent with *Magnola Metallurgy*, we continue to find that the program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act, as the actual recipients of the subsidy are limited in number. KPX is majority-owned by KEPCO, which is, in turn, majority-owned by the GOK.⁸¹ Consistent with our prior findings and further explained below, we preliminarily find KEPCO and KPX to be “authorities” within the meaning of section 771(5)(B) of the Act.⁸² Therefore, we continue to determine that a financial contribution in the form of a direct transfer of funds is provided to companies participating in this program under section 771(5)(D)(i) of the Act.

A benefit exists in the amount of the grant provided to POSCO, POSCO Chemical, and POSCO International in accordance with 19 CFR 351.504(a). We preliminarily find that the grants provided under this program are recurring in accordance with 19 CFR 351.524(c). To calculate the net subsidy rate, we divided the total benefit by the appropriate sales denominator, consistent

⁷⁴ See POSCO Preliminary Calculation Memorandum and the accompanying Excel spreadsheet.

⁷⁵ See POSCO IQR at 24-25 and Exhibit B-1; see also POSCO Chemical IQR at 18 and Exhibit B-1; POSCO International IQR at 20 and Exhibit B-1.

⁷⁶ See GOK IQR at Exhibit C-8.

⁷⁷ *Id.* at Exhibit B-1.

⁷⁸ See *CTL Plate from Korea AR1 Prelim PDM* at 17-18, unchanged in *CTL Plate from Korea AR1 Final IDM*, and *CTL Plate from Korea AR2 Prelim PDM* at 20-21, unchanged in *CTL Plate from Korea AR2 Final IDM*; see also *Magnola Metallurgy*, 508 F. 3d at 1353-56.

⁷⁹ See GOK IQR at 12.

⁸⁰ *Id.* at Exhibit B-1. The actual number of recipients of the subsidy under this program is proprietary in nature.

⁸¹ *Id.* at Exhibit C-6.

⁸² See *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Preliminary Negative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 81 FR 63168 (September 14, 2016) (*CTL Plate Investigation Prelim*), and accompanying PDM at 28-29, unchanged in *CTL Plate Investigation Final IDM*.

with the “Attribution of Subsidies” section above. On this basis, we preliminarily determine that POSCO received a net countervailable subsidy rate of 0.01 percent *ad valorem*.⁸³

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

POSCO and POSCO Chemical reported receiving grants under this program during the POR.⁸⁴ This program is regulated and operated by the Ministry of Trade, Industry and Energy (MOTIE) and is designed to promote the competitiveness of Korea’s national economy through the development of industrial technologies and to develop bases for industrial technology innovation.⁸⁵ This program is regulated by MOTIE and administered by the Korea Evaluation Institute of Industrial Technology (KEIT) and Korea Energy Technology Evaluation and Planning (KETEP) under Article 11 (Industrial Technologies Development Projects) of the ITIPA.⁸⁶ Commerce has previously determined this program is countervailable.⁸⁷

The GOK reports there were no changes to this program in the POR.⁸⁸ Consistent with our findings in prior segments of this proceeding, and with *Magnola Metallurgy*, we continue to find this program to be *de jure* specific under section 771(5A)(D)(i) of the Act because it is limited to projects in the basic plan that KEIT forecasts will support the development of the Korean national economy.⁸⁹ Further, we continue to find that a financial contribution was provided within the meaning of section 771(5)(D)(i) of the Act because the GOK’s payments constitute a direct transfer of funds.

A benefit exists in the amount of the grant provided to POSCO and POSCO Chemical in accordance with 19 CFR 351.504(a). We preliminarily find that the grants provided under this program are non-recurring in accordance with 19 CFR 351.524(c). To calculate the net subsidy rate for the grants received during the POR, we divided the received value of the grant by the appropriate sales denominator, consistent with the “Attribution of Subsidies” section above. On this basis, we preliminarily determine that POSCO received a countervailable subsidy rate of 0.01 percent *ad valorem* under this program.⁹⁰

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

POSCO reported receiving payments from KPX for sales of electricity it self-generated during the POR.⁹¹ The KPX was established in 2001 to operate the market for electric power in Korea under the Electric Utility Act (EUA) and its Enforcement decree. The operations of the KPX are legally governed by the ROEUM. The KPX matches supply from Korean generating companies with anticipated demand by setting a market price daily, soliciting offers from generators and then cumulating the supply from the lowest bid until supply meets demand.⁹²

⁸³ See POSCO Preliminary Calculation Memorandum and the accompanying Excel spreadsheet.

⁸⁴ See POSCO IQR at 24-25 and Exhibit B-1; see also POSCO Chemical IQR at 18-19 and Exhibit B-3.

⁸⁵ See GOK IQR at Exhibit B-3.

⁸⁶ *Id.*

⁸⁷ See *CTL Plate from Korea AR2 Prelim PDM* at 21-22, unchanged in *CTL Plate from Korea AR2 Final IDM*; see also *Magnola Metallurgy*, 508 F. 3d at 1353-56.

⁸⁸ See GOK IQR at 13.

⁸⁹ See *CTL Plate from Korea AR1 Prelim PDM* at 25-27, unchanged in *CTL Plate from Korea AR1 Final IDM*.

⁹⁰ See POSCO Preliminary Calculation Memorandum and the accompanying Excel spreadsheet.

⁹¹ See POSCO IQR at 30-32 and Exhibit C-3.

⁹² See GOK IQR at Exhibit C-6.

Under Article 31 of the EUA, sales and purchases of electricity in Korea may only be made through the KPX.⁹³ Under Article 1.2.1 of the ROEUM, companies that participate in the electricity market must register as a regular KPX member. The types of companies eligible to register are: (1) power generation companies that wish to trade power in the market; (2) electricity suppliers; (3) customers who directly purchase power in the market; (4) persons with electric installations for private use that wish to trade power in the market; and (5) community energy system operators that trade power in the market.⁹⁴ POSCO qualifies for participation in the electricity market under category four. Article 31(2) of the EUA and Article 19 of the EUA's Enforcement Decree prohibit transactions from companies with electricity generation capability for private use, except under circumstances as provided by Article 19 of the EUA's Enforcement Decree. A person who has set up electric installations for private use cannot trade the electricity that they produce at the electricity utility market, except in cases prescribed by Presidential Decree. A company can be an exception to the general prohibition and participate in the electricity market, if, according to Article 31(2) of the EUA, the person or company setting up electricity for private use transacts less than 50 percent of the total amount of electricity produced by such person annually.⁹⁵

The conditions and guidelines governing the operation of the electricity market are established by the ROEUM. Under Article 2 of the ROEUM, a company participating in the market must regularly submit data related to their generation costs to the KPX. Under Article 2.1.1.6, KPX evaluates, calculates and applies the generation cost, the criteria for which is determined by a cost evaluation committee.⁹⁶ The cost evaluation committee then determines the base capacity price and the correction coefficients by which a settlement price is determined through KPX's pricing formulas.⁹⁷ Commerce has previously determined this program is countervailable.⁹⁸

The GOK confirms that there were no changes to this program during the POR.⁹⁹ KPX is majority-owned by KEPCO, which is, in turn, majority-owned by the GOK.¹⁰⁰ Consistent with our prior findings and further explained below, we find KEPCO and KPX to be "authorities" within the meaning of section 771(5)(B) of the Act.¹⁰¹ Furthermore, we continue to find that a financial contribution exists in the form of the purchase of electricity, a good, by KPX from POSCO, pursuant to section 771(5)(D)(iv) of the Act. The GOK reported that a limited number of entities are registered with KPX to participate in the electricity market under Article 1.2.1 of the ROEUM.¹⁰² Accordingly, we continue to find the purchase of electricity for MTAR program to be *de facto* specific pursuant to section 771(5A)(D)(iii)(I) of the Act, because the actual recipients of the subsidy are limited in number.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.* This restriction does not apply to sales of electricity generated from "new and renewable resources," which is covered under the Power Generation Price Difference Payments program.

⁹⁶ *Id.* at Exhibit C-8.

⁹⁷ *Id.*

⁹⁸ See *CTL Plate from Korea AR2 Prelim PDM* at 22-24, unchanged in *CTL Plate from Korea AR2 Final IDM* at Comment 4; see also *Magnola Metallurgy*, 508 F. 3d at 1353-56.

⁹⁹ See GOK SQR at 9.

¹⁰⁰ *Id.* at Exhibit C-6.

¹⁰¹ See *CTL Plate Investigation Prelim PDM* at 28-29, unchanged in *CTL Plate Investigation Final IDM*.

¹⁰² The actual number of recipients of the subsidy under this program is proprietary in nature. See GOK IQR at Exhibit C-6.

Commerce has previously established that in situations where the government-owned utilities or power authorities are both selling and purchasing electricity, we may base our findings for purchases for MTAR on the benefit to the recipient standard set forth in 19 CFR 351.503(b).¹⁰³ During the POR, POSCO sold electricity to KEPCO, the government authority for electricity in Korea through KPX, under its registration as a regular KPX member, as described above, and purchased electricity from KEPCO through prices established by KPX.¹⁰⁴ If a government provides a good to a company for a price and then purchases the same good from the company for a higher price, under the “benefit-to-the-recipient” standard that is set forth under section 771(5)(E) of the Act and the SAA, the benefit is the difference between the price at which the government purchases the good and the price at which it sells the good at market rates.¹⁰⁵ This benchmark best reflects the “benefit-to-the-recipient” standard that is set forth under section 771(5)(E) of the Act and the SAA, and conforms with the standard of benefit language codified within 19 CFR 351.503(b). Because Commerce has previously determined that KPX’s price setting mechanism is consistent with market principles in setting tariffs under a tier three market analysis pursuant to 19 CFR 351.511(a)(2)(iii), and the courts have sustained such analysis in situations involving the state-controlled provision of electricity in Korea,¹⁰⁶ we relied on the prices KEPCO/KPX charged and POSCO paid for electricity under the reported industrial time-of-use pricing schedule as MTAR benchmarks, consistent with our practice.¹⁰⁷

A benefit exists under this program to the extent that the rates KEPCO/KPX paid POSCO for their purchases of electricity from POSCO during the POR exceed the rates KEPCO/KPX charged POSCO for their sales of electricity to POSCO during the same period at the benchmark prices described above. In past cases, Commerce generally has treated MTAR benefits as recurring benefits to be allocated in the year of receipt, similar to its treatment of less than adequate remuneration (LTAR) benefits under 19 CFR 351.511(b) and (c) and 19 CFR 351.524. In order to calculate the net subsidy rate during the POR, we determined a monthly benchmark price for POSCO’s sales of electricity based upon the average price of POSCO’s electricity purchases across all time intervals. We then subtracted the benchmark price from the actual unit price of POSCO’s sales of electricity to KPX during the POR for each month and multiplied this amount by the total number of kilowatt hours of electricity sales POSCO reported that month. We summed the benefit received each month by POSCO to calculate the total benefit, which we divided by POSCO’s total free-on-board sales during the POR. On this basis, we preliminarily find the countervailable subsidy rate for this program to be 0.05 percent *ad valorem* for POSCO.¹⁰⁸

¹⁰³ See *Certain Uncoated Groundwood Paper from Canada: Final Affirmative Countervailing Duty Determination*, 83 FR 39414 (August 9, 2018) (*Groundwood Paper from Canada*), and accompanying IDM at Comment 37.

¹⁰⁴ See POSCO ELEC NSA QR at 2 and Exhibit NSA-2.

¹⁰⁵ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 316, 103d Cong., 2d Session (1994) (SAA); see also *Certain Softwood Lumber Products from Canada: Final Affirmative Countervailing Duty Determination, and Final Negative Determination of Critical Circumstances*, 82 FR 51814 (November 8, 2017) (*Softwood Lumber from Canada*), and accompanying IDM at Comment 51.

¹⁰⁶ See *Maverick Tube Corp. v. United States*, 273 F. Supp. 3d 1293 (CIT 2017); see also *Nucor Corp. v. United States*, 286 F. Supp. 3d 1365 (CIT 2018); *Cold-Rolled Steel from Korea* IDM at Comment 1.

¹⁰⁷ See *Softwood Lumber from Canada* IDM at Comment 51.

¹⁰⁸ See POSCO Preliminary Calculation Memorandum and the accompanying Excel spreadsheet.

6. RSTA Article 10(1)(1): Tax Credits for Research and Human Resources Development Expenses

POSCO reported receiving benefits under RSTA Article 10(1)(1) during the POR.¹⁰⁹ RSTA Article 10 provides incentives to Korean enterprises to develop industrial technologies.¹¹⁰ Under Article 10(1)(1), a company that has research and human resources development expenses can deduct the relevant expenses.¹¹¹ MOEF maintains the program, while the NTS enforces it.¹¹² Commerce previously found this program countervailable in *CTL Plate from Korea AR2*.¹¹³

The GOK confirms that there were no changes to the program during the POR.¹¹⁴ Consistent with *Magnola Metallurgy* and our findings in prior segments of this proceeding, we continue to find that this program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act, as the actual number of recipients of the subsidy under RSTA Article 10 was limited to 1,450 recipients out of 740,215 corporate taxpayers during 2019.¹¹⁵ We further continue to find that this program results in a financial contribution from the GOK to the recipients in the form of revenue forgone under section 771(5)(D)(ii) of the Act.

The benefit conferred on the recipient is the difference between the amount of taxes it paid and the amount of taxes that it would have paid in the absence of this program, as contemplated by section 771(5)(E) of the Act and as described in 19 CFR 351.509(a).

The tax credits provided under this program are recurring benefits because the taxes are due annually. Thus, consistent with 19 CFR 351.524(a), the benefit is expensed in the year in which it is received. To calculate the net subsidy rate under this program, we divided the amount of POSCO's tax savings by its total sales during the POR. On this basis, we preliminarily find that POSCO received a net countervailable subsidy at a rate of 0.02 percent *ad valorem*.¹¹⁶

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

POSCO and POSCO Chemical reported receiving benefits from Quota Tariff Import Duty Exemptions under Article 71 of the Customs Act (Article 71) during the POR.¹¹⁷ According to the GOK, Article 71 allows for the establishment of quota tariffs by executive order in order to respond to short-term economic changes. Customs duties may be temporarily imposed at a rate of up to a 40-percent increase or decrease from the basic tariff rate pursuant to Article 71.¹¹⁸

¹⁰⁹ See POSCO IQR at 44 and Exhibit C-23.

¹¹⁰ See GOK IQR at Exhibit C-36.

¹¹¹ See POSCO IQR at Exhibit C-23.

¹¹² See GOK IQR at Exhibit C-36.

¹¹³ See *CTL Plate from Korea AR2 Prelim PDM* at 26, unchanged in *CTL Plate from Korea AR2 Final IDM*; see also *Magnola Metallurgy*, 508 F. 3d at 1353-56.

¹¹⁴ See GOK IQR at 25.

¹¹⁵ See GOK SQR at Exhibit A-25.

¹¹⁶ See POSCO Preliminary Calculation Memorandum and the accompanying Excel spreadsheet.

¹¹⁷ See POSCO IQR at 52 and Exhibit D-6; see also POSCO Chemical IQR at 37-38; POSCO Chemical SQR at Exhibit D-7.

¹¹⁸ See GOK IQR at Exhibit D-3.

MOEF is responsible for planning customs duty policies and drafting laws and regulations; the Korea Customs Service enforces the program.¹¹⁹

According to Article 71, customs duties may be deducted at a rate within a limit of 40/100 from the basic rate to facilitate import of specific goods to ensure supply and demand and stabilize the domestic prices of goods, or to correct uneven tariff rates amongst similar goods.¹²⁰ The goods subject to the imposition of duties and their quota tariff volumes, rates, and periods of application are prescribed by presidential decree, and the Ministry of Strategy and Finance reports the record of customs duties and results to the National Assembly each fiscal year.¹²¹ The Presidential Decree on applying quota tariffs pursuant to Article 71 is revised annually.¹²² During the POR, the GOK provided tariff reductions for 79 products.¹²³ Quota tariffs are available to importers in Korea importing those goods that are subject to the imposition of the customs duties under Article 71, *i.e.*, only those 79 product categories for which tariff reductions are prescribed under the program. There is no separate application and approval process for the application of the lower tariff rates; in cases where the Korea Customs Service determines that the imported goods meet the definition under the tariff table, import duties on the importation of the applicable goods are reduced or exempted.¹²⁴

At the time of importation of goods subject to the quota tariff under Article 71, companies declare the imported goods on their customs clearance form and provide an import permit to the customs authority. Import duties are reduced or exempted in cases where the customs authority determines that the imported goods are eligible.¹²⁵ During the POR, POSCO received import duty reductions or exemptions on six of the 79 products eligible for reduction or exemption during the POR.¹²⁶ POSCO Chemical additionally reported receiving import duty exemptions on two products under this program during the POR.¹²⁷ Commerce previously found this program countervailable in *CTL Plate from Korea AR2*.¹²⁸

The GOK confirms that there were no changes to this program during the POR.¹²⁹ Consistent with *Magnola Metallurgy* and the prior segment of this proceeding, we continue to find that this program is *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because it is limited to certain industries or enterprises importing the eligible product categories under the program. Further, we continue to find that the import duty exemptions under this program confer a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act.

¹¹⁹ *Id.*

¹²⁰ See POSCO IQR at Exhibit D-4.

¹²¹ *Id.*

¹²² See GOK IQR at Exhibit D-3.

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ See POSCO IQR at Exhibit D-5.

¹²⁶ *Id.* at Exhibit D-6.

¹²⁷ See POSCO Chemical SQR at Exhibit D-7.

¹²⁸ See *CTL Plate from Korea AR2 Prelim PDM* at 27-28, unchanged in *CTL Plate from Korea AR2 Final IDM* at Comment 5; see also *Magnola Metallurgy*, 508 F. 3d at 1353-56.

¹²⁹ See GOK SQR at 9.

The benefit conferred on the recipient is the difference between the amount of import duty exemptions it paid and the amount of import duty exemptions that it would have paid in the absence of this program, as described in 19 CFR 351.510(a).

The tax credits provided under this program are recurring benefits because the taxes are due annually. Thus, consistent with 19 CFR 351.524(a), the benefit is expensed in the year in which it is received. To calculate the net subsidy rate under this program, we subtracted the value of the actual import duty paid from the amount of the original import duty that would have paid in the absence of the program in accordance with 19 CFR 351.510(a)(1). We then divided the total benefit by the appropriate sales denominator, consistent with the “Attribution of Subsidies” section above. On this basis, we preliminarily find that POSCO received a net countervailable subsidy at a rate of 0.04 percent *ad valorem*.¹³⁰

8. Port Usage Fee Exemptions

POSCO reported receiving port usage fee exemptions during the POR.¹³¹ The GOK established this program in 1976 under the Harbor Act in order to compensate companies that have constructed port facilities with their own funds and have made donations to the government.¹³² The Ministry of Ocean and Fishery administers the program for the GOK.¹³³ According to the GOK, POSCO constructed port facilities and transferred its ownership to the Korean government under Korean law.¹³⁴ In accordance with Article 15 of the Harbor Act and Article 20 of its Enforcement Decree, the GOK exempted POSCO from payment of port usage fees, and gave POSCO the rights to collect port usage fees from other entities, until the total amount of exempted fees accumulates to the total of the investments made for the port construction.¹³⁵ This program was previously countervailed in other proceedings involving Korea.¹³⁶

We preliminarily find that a financial contribution exists in the form of revenue forgone, as described under section 771(5)(D)(ii) of the Act and confers a benefit pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a). Further, because the companies that were approved and received assistance under this program were limited in number during the POR, we preliminarily find that this program is *de facto* specific under 771(5A)(D)(iii)(I) of the Act.¹³⁷ The names of the ports in which POSCO participated in constructing are business proprietary and, thus, cannot be disclosed in this decision memorandum.¹³⁸ However,

¹³⁰ See POSCO Preliminary Calculation Memorandum and the accompanying Excel spreadsheet.

¹³¹ See POSCO IQR at 54 and POSCO 3SQR at Exhibit D-19.

¹³² See GOK IQR at Exhibit D-1.

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ See, e.g., *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Results and Partial Rescission of Countervailing Duty Administrative Review*; 2018, 86 FR 29237 (June 1, 2021), and accompanying IDM at Comment 2.

¹³⁷ See GOK IQR at Exhibit D-1. The actual number of recipients of the subsidy under this program is proprietary in nature.

¹³⁸ See POSCO Preliminary Calculation Memorandum.

Commerce generally treats each port program as a separate program.¹³⁹ To calculate the net subsidy rate for this program, we divided the total benefit received during the POR for each port by POSCO's total POR sales. On this basis, we preliminarily find that POSCO received a net countervailable subsidy at a rate of 0.07 percent *ad valorem*.¹⁴⁰

B. Programs Preliminarily Determined to Be Not Countervailable

1. Korea Workers' Compensation and Welfare Grants

POSCO and its cross-owned affiliates POSCO Chemical, POSCO International, and PNR reported receiving benefits under this program during the POR.¹⁴¹ This program was adopted on February 3, 2003 under the Ordinance on the Establishment and Operation of Childcare Facilities with the purpose of supporting mothers who are finding and securing jobs, reducing the burden of child care on workers of small and medium enterprises (SMEs), and supporting work-life balance by providing compensation in the construction and operation of childcare facilities.¹⁴² The Korea Workers' Compensation and Welfare Service manages this program on behalf of the Ministry of Employment and Labor.¹⁴³

In order to establish a SMEs joint workplace childcare center, a large-sized company provides either the land or building, or pays for the costs of the center.¹⁴⁴ As such, the children of workers of the large-sized company, its affiliated companies, and SMEs located in the local community may be enrolled in the joint workplace childcare center.¹⁴⁵ A company requesting compensation for establishing facilities must submit an application to the Korea Workers' Compensation and Welfare Service within a month from the start date of construction under the relevant contract, the date of execution of the contract for the purchase of facilities, or the date on which the materials and tools are initially purchased.¹⁴⁶ For assistance in hiring teachers and paying monthly salaries, the company must file the application to the Korea Workers' Compensation and Welfare Service with supporting materials, including the teaching period and salary amounts, before the 14th day of each month.¹⁴⁷ Pursuant to Articles 26 and 40 of the Ordinance on the Establishment and Operation of Childcare Facilities, the compensation under this program is provided exclusively for childcare services to any employers of workplaces that have employment insurance, in which employers and employees are automatically enrolled.¹⁴⁸ In accordance with Article 42(8) of the Ordinance on the Establishment and Operation of Childcare Facilities, the company can only use the compensation for teachers' labor costs under this program through a direct transfer from a bank account reported at the time of application or a

¹³⁹ See, e.g., *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), and accompanying PDM at 27, 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), and accompanying IDM.

¹⁴⁰ See POSCO Preliminary Calculation Memorandum and the accompanying Excel spreadsheet.

¹⁴¹ See POSCO IQR at 38; POSCO Chemical IQR at 29; POSCO International IQR at 33; and PNR IQR at 17.

¹⁴² See GOK IQR at Exhibit C-28.

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*; see also GOK SQR at 8.

bank account of the childcare center, or by means of a debit card issued exclusively for this subsidy by the bank linked to the account.¹⁴⁹

POSCO reported that during the POR it installed three new child-care centers for not only the children of the employees of POSCO and its affiliates, but also for the children of the employees of POSCO's suppliers and the local community, for which it received compensation from the GOK.¹⁵⁰ The criteria for the amounts provided to companies are outlined in Appendix 2 of the Ordinance on the Establishment and Operation of Childcare Facilities.¹⁵¹ Specifically, the GOK provides 60 percent of the costs associated with the conversion of a facility into a childcare center, capped at KRW 300 million for an independent childcare center and up to KRW 600 million for a joint childcare center.¹⁵² For enterprises subject to preferential support, 90 percent of the costs of facility conversion or establishment may be provided, up to KRW 2 billion according to the type of workplace facility converted or established.¹⁵³ With respect to purchasing teaching materials, the GOK provides 60 percent of the price of the teaching materials, up to KRW 50 million when the facility purchases the teaching materials for the first time and up to KRW 30 million when the facility purchases updated materials.¹⁵⁴ For enterprises subject to preferential support, the GOK provides 90 percent of the price of the teaching materials, up to KRW 70 million when the facility purchases the teaching materials for the first time and up to KRW 30 million when the facility purchases updated materials.¹⁵⁵ Regarding the assistance for hiring teachers, the GOK calculates the assistance by multiplying the amount budgeted by the Ministry of Employment and Labor by the total of the number of teachers, cooks, and the principal who worked for 20 or more days in that month, and by the ratio the number of children whose parents have employment insurance and the total number of children registered with the facility.¹⁵⁶

Based on the information on the record, we preliminarily find that this program is not specific within the meaning of 771(5A) of the Act, as its availability is not limited to particular companies or industries. Under Article 26 of the Ordinance on the Establishment and Operation of Childcare Facilities, the receipt of the benefit is not limited to any industry or group of industries; rather, the GOK identifies that any employer or group of employers with employment insurance that intend to provide childcare services may apply for support.¹⁵⁷ We therefore preliminarily find that this program is not countervailable.

¹⁴⁹ See GOK SQR at 8-9.

¹⁵⁰ See POSCO IQR at 38.

¹⁵¹ See GOK IQR at Exhibit C-28.

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ *Id.* at Exhibit C-29.

C. Programs Preliminarily Determined Not to Confer a Measurable Benefit or Not to Confer a Benefit During the POR

1. Provision of Electricity for LTAR

Overview of the Korean Electricity Market

In 2001, the GOK reformed its laws and introduced an electricity market with three distinct areas of operation: electricity generation companies, electricity market operators, and the transmission/distribution/selling of electricity to end users.¹⁵⁸

Electricity Generators

The electricity generators of Korea consist of KEPCO's six wholly-owned subsidiary generators (GENCOs),¹⁵⁹ independent power generation companies, and community energy systems.¹⁶⁰ The community energy systems are private generating companies that generate, transmit, and distribute electricity to small communities.¹⁶¹ These private electricity generating companies charge KEPCO's tariff rates to their customers.¹⁶² Finally, KEPCO continues to generate electricity for remote and isolated islands for which there is no commercial generation company.¹⁶³

Electricity Market Operator –KPX

KPX was established under the Electricity Business Law and is responsible for setting the price of electricity, overseeing the electricity trading, and collecting relevant data for the electricity market in Korea.¹⁶⁴ Except for the community energy systems and KEPCO's two long-term purchase agreements prior to 2021, all purchasing and selling of electricity is required to be done through KPX.¹⁶⁵

The electricity market works on a cost-based pool system. The system has two main components: the marginal (representing the variable costs) and capacity (representing the fixed costs) prices.¹⁶⁶ For the marginal price, electricity is sold on an hourly basis. One day prior to trading, KPX will forecast the next day's hourly demand and projected supply based on the electricity generators' submitted bids for any given hour. Under the merit order system, the lowest generator's bid will receive a purchase order for its supply of electricity and the purchase orders will be issued to the next lowest bid until the supply for the given hour is met.¹⁶⁷ The

¹⁵⁸ See GOK NSA QR at 29.

¹⁵⁹ *Id.* at 4 (The six companies are: Korea Hydro & Nuclear Power Co., Korea South-East Power Co., Korea Midland Power Co., Korea Western Power Co., Korea Southern Power Co., and Korea East-West Power Co.) and 5 (KEPCO's power generation department was spun off through the Promotion of the Restructuring of the Electricity Business Act in 2001.).

¹⁶⁰ *Id.* at 4-5.

¹⁶¹ *Id.* at 5.

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.* at 6.

¹⁶⁶ *Id.* at 29.

¹⁶⁷ *Id.* at 30.

price of the last bid will be the system marginal price and will be used to purchase all of the accepted electricity bids. The electricity generators who submitted bids and exceeded the system marginal price for the hour will not receive purchase orders to supply electricity for the hour.¹⁶⁸ For nuclear generators, coal-power generators, and GENCOs, an adjusted coefficient is also included in their KPX price for electricity.¹⁶⁹ The purpose of the adjusted coefficient is two-fold: to prevent over-payment to generators with low fuel costs (e.g., nuclear and coal) and to maintain a differential between the expected rate of return between the GENCOs and KEPCO.¹⁷⁰

The purpose of the capacity price is to compensate the generation companies' fixed costs of constructing generation facilities, provide incentives for construction of new generation units, and maintain reliability of the nationwide electricity transmission network.¹⁷¹ The capacity price is set based on a standardized generation unit output, but also factors in the year the generation unit started operations and the capacity reserve factor.¹⁷²

Transmission/Distribution/Selling of Electricity – KEPCO

KEPCO is the exclusive supplier of electricity in Korea, except for the customers serviced by community energy systems, as explained above.¹⁷³ Moreover, under Article 31 of the Electricity Business Law, KEPCO can only purchase electricity through KPX, except for the two long-term purchase agreements noted above.¹⁷⁴ Finally, the GOK submitted the underlying laws and described the process for KEPCO to set the electricity tariff rates and provided the applicable tariff rates during the POR.¹⁷⁵ The tariff rates were last updated in 2013 for industrial users.¹⁷⁶

Analysis

The petitioners have alleged the provision of electricity for LTAR.¹⁷⁷ KEPCO is the supplier of electricity to the respondents during the POR.¹⁷⁸ KEPCO also wholly owns the six GENCOs and KPX.¹⁷⁹ KEPCO is a statutory legal entity (separately incorporated) that is established and operated pursuant to the Korea Electric Power Corporation Act and its Enforcement Decree and the Electricity Business Law.¹⁸⁰ Under Korean law, the GOK is required to own, directly or indirectly, at least fifty-one percent of KEPCO's capital, which allows the GOK to control the approval of corporate matters relating to KEPCO.¹⁸¹ The GOK also exercises significant control over KEPCO's business and operations.¹⁸² Moreover, the GOK exercises significant control over KEPCO and pursues government policy objectives through KEPCO's business and

¹⁶⁸ *Id.* at 31.

¹⁶⁹ *Id.*

¹⁷⁰ *Id.* at 31-32.

¹⁷¹ *Id.* at 32.

¹⁷² *Id.* at 33.

¹⁷³ *Id.* at 5.

¹⁷⁴ *Id.* at 4-5.

¹⁷⁵ *Id.* at Exhibits E-1, E-3, and E-4.

¹⁷⁶ *Id.* at 4.

¹⁷⁷ See NSA Memorandum at 2-6.

¹⁷⁸ See POSCO ELEC NSA QR at 1.

¹⁷⁹ See GOK NSA QR at Exhibit E-2 at F-82 and F-86.

¹⁸⁰ *Id.* at Exhibit E-1.

¹⁸¹ *Id.* at 3-9 and Exhibit E-2 at 30.

¹⁸² *Id.*

operations.¹⁸³ Accordingly, we preliminarily find KEPCO to be an “authority” within the meaning of section 771(5)(B) of the Act, which provides producers of the subject merchandise a financial contribution in the form of the provision of a good or service under section 771(5)(D)(iii) of the Act.

Under 19 CFR 351.511(a)(2), Commerce determines whether electricity is provided for LTAR by comparing, in order of preference: (i) the government price to a market determined price for actual transactions within the country such as electricity tariffs from private parties (referred to as a Tier 1 benchmark); (ii) the government price to a world market price where it would be reasonable to conclude that such a world market price is available to electricity consumers in the country in question (referred to as a Tier 2 benchmark); or (iii) if no world market price is available then Commerce will measure the adequacy of remuneration by assessing whether the government price is consistent with market principles (referred to as a Tier 3 benchmark).

KEPCO is an exclusive provider of electricity in Korea, and the GOK regulates the rates that KEPCO charges for electricity by approving KEPCO’s application to change the electricity tariff rates.¹⁸⁴ As noted above, electricity is supplied directly to consumers through community electricity systems, but they use KEPCO’s tariff rates.¹⁸⁵ However, if the government provider constitutes a majority, or in certain circumstances, a substantial portion of the market, as in this case, Commerce determines that prices within the country are distorted and cannot be used for benchmark purposes. Therefore, we find that a Tier 1 benchmark (a price within the country) is not available.¹⁸⁶

The next alternative in the benchmark hierarchy is to use world market prices (Tier 2 benchmark). However, under 19 CFR 351.511(a)(2)(ii), Commerce will only use world market prices if the good or service is actually available to the purchaser in the country under investigation or review. With respect to electricity, Commerce has stated that electricity prices from countries in the world market are normally not available to purchasers in the country under investigation or review.¹⁸⁷ The GOK has stated that there is no cross-border transmission or distribution of electricity in Korea;¹⁸⁸ therefore, we determine that we cannot rely on world market prices to determine whether electricity is provided for LTAR.

¹⁸³ *Id.*

¹⁸⁴ *Id.* at 3-4 and Exhibit E-2 at 5.

¹⁸⁵ *Id.* at 4.

¹⁸⁶ See *CVD Preamble* at 65377 (We normally do not intend to adjust such prices to account for government distortion of the market. While we recognize that government involvement in a market may have some impact on the price of the good or service in that market, such distortion will normally be minimal unless the government provider constitutes a majority or, in certain circumstances, a substantial portion of the market. Where it is reasonable to conclude that actual transaction prices are significantly distorted as a result of the government’s involvement in the market, we will resort to the next alternative in the hierarchy.).

¹⁸⁷ *Id.* (Paragraph (a)(2)(ii) provides that, if there are no useable market-determined prices stemming from *actual* transactions, we will turn to world market prices that *would be available* to the purchaser. We will consider whether the market conditions in the country are such that it is reasonable to conclude that the purchaser could obtain the good or service on the world market. For example, a European price for electricity normally would not be an acceptable comparison price for electricity provided by a Latin American government, because electricity from Europe in all likelihood would not be available to consumers in Latin America.).

¹⁸⁸ See GOK NSA QR at 7.

The final alternative in the benchmark hierarchy, set forth under 19 CFR 351.511(a)(2)(iii), is to determine whether the government price is consistent with market principles (Tier 3 benchmark).¹⁸⁹ Because we are unable to use Tier 1 or Tier 2 benchmarks, we preliminarily determine to use a Tier 3 benchmark to examine whether the respondents have received a countervailable benefit from the provision by KEPCO of electricity for LTAR. Under a Tier 3 benchmark analysis, Commerce will assess whether the prices charged by KEPCO are set in accordance with market principles through an analysis of factors such as KEPCO's price-setting philosophy and costs (including rates of return sufficient to ensure future operations). In accordance with our past practice, we have not put these factors in any hierarchy and may rely on one or more of these factors in any particular case.¹⁹⁰

With regard to our Tier 3 benchmark analysis, the GOK stated the applicable tariff schedule during the POR came into effect in November 2013.¹⁹¹ Commerce has previously evaluated the process and underlying methodology to develop and approve the November 2013 tariff schedule and determined it was set according to market principles.¹⁹² In our determinations, we noted the GOK had a pricing methodology in place and that it considered costs and a return on investment.¹⁹³ In this segment of the proceeding, the GOK has placed on the record application approval documents,¹⁹⁴ cost information,¹⁹⁵ and Commerce's electricity verification report from *CORE from Korea* associated with the November 2013 tariff schedule.¹⁹⁶ Therefore, we preliminarily determine there are no changes from these prior findings to the 2013 tariff schedule and will examine these rates in the context of whether KEPCO recovered its cost (including rates of return sufficient to ensure future operations) for the POR.

¹⁸⁹ See *CVD Preamble*, 63 FR at 65378 (Paragraph (a)(2)(iii) provides that, in situations where the government is clearly the only source available to consumers in the country, we normally will assess whether the government price was established in accordance with market principles. Where the government is the sole provider of a good or service, and there are no world market prices available or accessible to the purchaser, we will assess whether the government price was set in accordance with market principles through an analysis of such factors as the government's price-setting philosophy, costs (including rates of return sufficient to ensure future operations), or possible price discrimination. We are not putting these factors in any hierarchy, and we may rely on one or more of these factors in any particular case. In our experience, these types of analyses may be necessary for such goods or services as electricity, land leases, or water, and the circumstances of each case vary widely. See, e.g., *Final Affirmative Countervailing Duty Determinations: Pure Magnesium and Alloy Magnesium from Canada*, 57 FR 30946, 30954 (July 13, 1992); and *Final Affirmative Countervailing Duty Determination: Venezuelan Wire Rod*, 62 FR 55014, 55021-22 (October 22, 1997)).

¹⁹⁰ See *CVD Preamble*, 63 FR at 65378.

¹⁹¹ See GOK NSA QR at 23.

¹⁹² See *CTL Plate Investigation Final IDM* at Comment 2; see also *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Affirmative Determination*, 81 FR 53439 (August 12, 2016), and accompanying IDM at Comment 2; *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Final Affirmative Determination*, 81 FR 4996 (July 29, 2016), and accompanying IDM at Comment 2; *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Affirmative Determination*, and *Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 5310 (June 2, 2016) (*CORE from Korea*), and accompanying IDM at Comment 2; and *Welded Line Pipe from the Republic of Korea: Final Negative Countervailing Duty Determination*, 80 FR 61365 (October 13, 2015), and accompanying IDM at Comment 1.

¹⁹³ *Id.*

¹⁹⁴ See GOK NSA QR at Exhibits E-8, E-14-E-17.

¹⁹⁵ *Id.* at Exhibits E-18 and E-19.

¹⁹⁶ *Id.* at Exhibit E-20.

KPX Prices

As noted above, KEPCO is required to purchase its electricity through KPX.¹⁹⁷ These purchases of electricity are reflected in the company's operating costs and expenses.¹⁹⁸ In recent U.S. Court of Appeals for the Federal Circuit (CAFC) decisions, the extent that KPX is a subsidiary of KEPCO and may provide a subsidy through its pricing to KEPCO has been reviewed and, in one instance, remanded.¹⁹⁹ In recent administrative reviews, Commerce has examined KPX, in the context of an upstream subsidy allegation, to determine whether KPX's prices of the GENCOs' electricity to KEPCO is a provision of electricity for LTAR.²⁰⁰ Commerce evaluated the marginal and capacity price and the adjusted coefficient under a Tier 3 analysis and found there was no benefit.²⁰¹ Moreover, in the *2019 Seamless Pipe Investigation*, the GOK placed the six GENCOs' financial statements on the record and we determined that each generating company recovered its costs in 2018 and 2019.²⁰² In this instant case, the GOK provided financial statements for the GENCOs and we continue to find preliminarily that each of the six GENCOs recovered its costs.²⁰³ With regard to a rate of return, as stated above, the calculation of the system marginal price includes consideration of the GENCOs' and KEPCO's rate of return.²⁰⁴ As such, the price paid by KEPCO through KPX is inclusive of a rate of return. Thus, there is no information on this record that would have us revisit our prior findings concerning the price KEPCO pays for electricity through KPX.

KEPCO's Reported 2019 Costs

According to Article 6 of the Price Stabilization Act (PSA) and its Presidential Decree, all public utilities must be determined at the level that reconciles the aggregate costs for supplying such services.²⁰⁵ Moreover, Article 7 of the Enforcement Decree of the Electricity Business Law and Article 11 of the Notification on the Power Generating Business Approval Criteria, Electricity Tariff Calculation Standard, the Permitted Error of the Electric Consumption Measuring Instrument, and Scope of the Business Operations Related to Electricity (Notification), state the tariff rate for each class must be set to cover the cost for the corresponding electricity class, which includes a reasonable amount of investment return.²⁰⁶ However, Article 14 of the Notification states the tariff rates can be adjusted after considering customers' economic

¹⁹⁷ *Id.* at 4-5 (excluding two long-term electricity contracts in place prior to 2001).

¹⁹⁸ *Id.* at 14-16.

¹⁹⁹ See *Nucor Corp. v. United States*, 927 F.3d 1243, 1259-60 (Fed. Cir. 2019); and *POSCO v. United States*, 977 F.3d 1369, 1378 (Fed. Cir. 2020).

²⁰⁰ See *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2017*, 85 FR 15112 (March 17, 2020), and accompanying IDM at Comment 1; see also *Cold-Rolled Steel from Korea* IDM at Comment 1; *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), and accompanying IDM at Comment 7.

²⁰¹ *Id.*

²⁰² See *Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 86 FR 35267 (July 2, 2021) (*2019 Seamless Pipe Investigation*), and accompanying IDM at 9.

²⁰³ See GOK 2SQR at Exhibit E-41.

²⁰⁴ See section "Electricity Market Operator –KPX" above; see also GOK SQR at 20-21; GOK 2SQR at 12-15; GOK NSA QR at Exhibit E-20 at 23.

²⁰⁵ See GOK NSA QR at Exhibit E-5.

²⁰⁶ *Id.* at 8-9 and Exhibit E-6.

circumstances and other societal factors. Therefore, each year, KEPCO will submit its cost and sales data to MOTIE.²⁰⁷

When KEPCO submits its cost and sales data to MOTIE, it reflects the operating costs and return on investment through the follow steps:

- Step 1. Calculate the aggregate amount of the cost, which includes a reasonable amount of the investment return;
- Step 2. Distribute the aggregate amount of the cost into four categories; generation,²⁰⁸ transmission, distribution and sales of electricity;
- Step 3. Divide the distribution cost into three categories; high voltage (over 22.9 kV), low voltage (less than 22.9 kV) and the customer management cost (CMC);
- Step 4. Divide the sales cost into two categories; the customer management fee and other costs;
- Step 5. Distribute each cost into fixed charge and variable charge;
- Step 6. Divide the cost into each class considering the load level, the electricity consumption pattern, and the amount of the electricity consumed;
- Step 7. Distribute the cost according to the number of customers for each {class}; and
- Step 8. Aggregate the cost for each electricity class: Σ cost for each class (cost for the generation, transmission, distribution, sales of each class) \div sales volume for each class²⁰⁹

The submitted cost data are also audited through KEPCO's financial statements each year.²¹⁰ For 2019, the GOK submitted KEPCO's audit of its 2019 financial statements and tied the audited numbers to Exhibit E-18 (submitted 2019 cost data) of the GOK SQR.²¹¹

For return on capital (rate of return), the GOK provided the relevant regulation, formula, and calculation and tied each of the reported numbers in the formula to its financials or source documentation.²¹² As noted in the steps above, the rate of return is inclusive of its reported costs to MOTIE.²¹³ We examined the above process and were able to trace the costs and the rate of return to KEPCO's submitted cost data through to its recovered costs for each tariff classification as stated in the GOK's NSA QR.²¹⁴

For 2019, POSCO provided electricity usage that included voltage, option, rates, and amount paid for the industrial classification.²¹⁵ As noted above, KEPCO's cost data calculate a cost recovery rate based on the classifications set by the tariff schedule. We, therefore, compared the companies' reported industrial tariff rates to KEPCO's cost data. From this comparison, we

²⁰⁷ *Id.* at 4 and 8-9.

²⁰⁸ As noted above, KEPCO includes purchases of electricity in its operating costs and expenses. *See* GOK NSA QR at 14-15.

²⁰⁹ *Id.*

²¹⁰ *Id.* at 10.

²¹¹ *See* GOK SQR at 29-31 and Exhibit E-22.

²¹² *See* GOK SQR at 14-21; *see also* GOK 2SQR at 14-15.

²¹³ *See* GOK NSA QR at 10-11, 13-16, and 18-20.

²¹⁴ *See* POSCO Preliminary Calculation Memorandum.

²¹⁵ *See* POSCO ELEC NSA QR at Exhibit NSA-2.

noted that certain reported industrial rates recovered costs and a rate of return and certain rates did not recover costs and a rate of return.²¹⁶ Therefore, we preliminarily determine that KEPCO does have a pricing mechanism in place that is based on market principles, but also that the industrial rates did not always recover costs and a rate of return under our Tier 3 analysis.

For those rates that did not recover costs and a rate of return, we determined a percentage amount that would enable cost recovery and a rate of return. We then multiplied this percentage amount by the rates assigned to the applicable classification to determine the amount each rate would need to be increased to allow for cost recovery and a rate of return. The applicable rate was then subtracted from this calculated rate to determine the benefit per-unit rate. This per-unit rate was then multiplied by the electricity volume for each rate on a monthly basis and summed to determine the benefit. The benefit amount was then divided by the applicable sales value. The above calculation resulted in a non-measurable benefit for POSCO.²¹⁷

2. Grants for Local Province's Investment Promotion

POSCO Chemical reported receiving grants for a local province's investment promotion in the Gwangyang Bay Area Free Economic Zone (jointly administered by Gwangyang and Yeosu administrative districts) during the POR.²¹⁸ The program, which was established in 2004 by the enactment of the Special Act on Balanced National Development, promotes the investment of corporations to redress imbalances between regions and improve regional competitiveness by facilitating local job creation.²¹⁹ MOTIE oversees the program for the central government and the local government authorities that administered POSCO Chemical's grants are Jeollanam-do Province, Gwangyang City, and Yeosu City.²²⁰ Under the program, if a company located in the Seoul Metropolitan area relocates to a provincial area, the local administrative districts may provide support to the company.²²¹ Article 3 of the Public Notice of National Financial Fund Assistance Standard Regarding Attracting Local Investment of Corporation by Local Government identifies preferential districts in which provincial investment grants are available to companies.²²²

Pursuant to the Public Notice of Partial Amendment for National Financial Fund Assistance Standard Regarding Attraction of Local Investment Corporation by Local Government provided under Presidential Decree of the Special Act on Balanced National Development, a company which sets up a new facility, purchases an old facility and changes its use, starts a new business in the local province, or extends its business into a local province and sets up new business facilities, can apply for grants.²²³ Pursuant to the Management Ordinance of Local Subsidies for Gwangyang and the Management Ordinance of Local Subsidies for Yeosu, a company submits applications to the mayor of each city, Gwangyang and Yeosu, and the mayor of the respective city approves the issuance of the grant.²²⁴ Companies must submit an application and a

²¹⁶ See POSCO Preliminary Calculation Memorandum.

²¹⁷ *Id.*

²¹⁸ See POSCO Chemical IQR at 42-43 and Exhibit D-2.

²¹⁹ See GOK IQR at Exhibit D-5.

²²⁰ *Id.*

²²¹ *Id.*

²²² *Id.*

²²³ *Id.*

²²⁴ *Id.*

performance plan for assistance under the program to receive approval for participation in the program, including the purpose of the assistance, the cost to be incurred, and the period for which the assistance is requested.²²⁵ Local governments review the documents and conduct a validity evaluation.²²⁶

Pursuant to section 351.525(b)(5)(i) of the Act, “{i}f a subsidy is tied to the production or sale of a particular product, the Secretary will attribute the subsidy only to that product.” In making this determination, Commerce analyzes the intended purpose of the subsidy based on information available at the time the subsidy is bestowed.²²⁷ In so doing, Commerce’s practice is to identify the type and monetary value of a subsidy at the time of bestowal, rather than examine the use or effect of subsidies (*i.e.*, to trace how the benefits are used by companies).²²⁸ A subsidy is tied only when the intended use is known to the subsidy provider (in this case, the GOK) and so acknowledged prior to, or concurrent with, the bestowal of the subsidy. For example, in determining whether a loan is tied to a particular product, Commerce examines the loan approval documents; likewise, to determine whether a grant is tied to a particular product, Commerce examines the grant approval documents.²²⁹ The courts have previously upheld Commerce’s analysis in this regard.²³⁰

The record demonstrates that the GOK’s investment memorandum of understanding to POSCO Chemical specifically identified the purpose of the business facility as part of its approval for the grant; the purpose of the facility is business proprietary information and unrelated to the production of subject merchandise.²³¹ The GOK was aware of the purpose of the grant at the time of bestowal due to POSCO Chemical’s identification of the purpose of the grant on its application and accompanying performance plan, and approved the specific expansion of business facilities.²³² As discussed above, the local governments are required to review the application and conduct validity evaluations on the projects and subsequently approve the grants specifically on the acceptance of the project. Therefore, we preliminarily find that the grants provided by Gwangyang and Yeosu districts to POSCO Chemical were tied to the production of non-subject merchandise and did not confer a benefit to POSCO’s production of CTL plate.

3. Modal Shift Program
4. Grants under the Human Resources Consortium Program
5. Port Usage Grants for Pohang Youngil Port
6. Energy Savings Program Subsidies: Demand Adjustment Program of Emergency Load Reduction
7. Energy Savings Program Subsidies: Demand Response Market Program for Payment Savings
8. Power Generation Price Difference Payments

²²⁵ *Id.*

²²⁶ *Id.*

²²⁷ See CVD Preamble at 65403-65404.

²²⁸ See *Groundwood Paper from Canada* IDM at Comment 34.

²²⁹ *Id.*; see also CVD Preamble at 65403.

²³⁰ See *Maverick Tube Corp. v. United States*, Slip Op. 16-16, Consol. Court No. 14-00229 (CIT 2016), *aff’d*, *Maverick Tube Corp. v. United States*, 857 F. 3d 1353, (Fed. Cir. 2017).

²³¹ See GOK IQR at Exhibit D-11.

²³² See POSCO Chemical IQR at Exhibit D-3.

9. RSTA Article 10(1)(3): Tax Reduction for Research and Human Resources Development
10. RSTA Article 25(1)(1)/ Formerly RSTA Article 11: Tax Credit for Investment in Facilities for Research and Manpower
11. RSTA Article 25(1)(3)/ Formerly RSTA Article 25(3): Tax Credit for Investment in Environmental and Safety Facilities
12. RSTA Article 26: Tax Credits for Employment-Creating Investment
13. RSTA Article 9: Reserve for Research and Human Resources Development
14. RSLTA Article 78(1)
15. RSLTA Article 78(2)
16. RSLTA Article 78(3)
17. Asset Revaluations Pursuant to Article 56(2) of the Tax Reduction and Exemption Control Act
18. RSTA Article 25(1)(2)/ Formerly RSTA Article 25(2): Tax Deductions for Investments in Energy Economizing Facilities
19. RSTA Article 8-3: Tax Credit when Making Contributions to Funds for Collaborative Cooperation between Large Enterprises and SMEs
20. RSTA Article 25(1)(6)/ Formerly RSTA Article 24: Investment in Productivity Improving Facilities
21. RSTA Article 25(1)(5)/ Formerly RSTA Article 25: Investment in Certain Enumerated Safety Facilities
22. RSTA Article 30: Investment in Certain Fixed Assets for Use for Business Purposes
23. RSTA Article 104(8)(1): Tax Credits for Electronic Returns
24. RSTA Article 10(3)
25. RSTA Article 29(7)
26. RSTA Article 30(4-1)
27. KDB Short-Term General/Operation Loans
28. Long-Term Facility and General Loans from KDB
29. International Bank of Korea (IBK) Short-Term General Loans
30. Korea Export-Import Bank (KEXIM) Overseas Investment Credit Program
31. Special Accounts for Energy and Resources Loans
32. Long-Term Loans from the Korea Energy Agency (formerly, the Korean Resources Corporation and the Korea National Oil Corporation)²³³

C. Programs Preliminarily Determined to Be Not Used

We preliminarily determine that POSCO did not apply for or receive countervailable benefits during the POR under the following programs:

1. RSTA Article 104(14): Third Party Logistics Operation
2. Unreported Government Subsidies Indicated on POSCO M-Tech's Income Tax Return
3. RSTA Article 104(15): Development of Overseas Resources
4. KEXIM Import Financing
5. KDB and Other Policy Banks' Short-Term Discounted Loans for Export Receivables
6. PDC's Debt Workout

²³³ See Preliminary Calculation Memorandum at 6-12 for a discussion of the non-measurable benefits received under programs 3-32.

7. Various Government Grants Contained in Financial Statements
8. RSTA Article 7-2: Tax Credit to Improve Corporate Payment System Including Negotiable Instruments
9. RSTA Article 94: Acquisition of Facilities to Improve Corporate Welfare
10. RSTA Article 121(2): Corporate Tax Reductions or Exemptions for Foreign Investment
11. Pre-1992 Directed Credit Loans
12. R&D and Other Subsidies in AUL Period
13. Power Business Law Subsidies
14. Provision of Liquified Natural Gas for LTAR
15. Short-Term Export Credits
16. Export Factoring
17. Export Loan Guarantees
18. Trade Bill Rediscounting Program
19. Loans under the Industrial Base Fund
20. Export Credit Guarantees
21. Clean Coal Subsidies
22. GOK Subsidies for “Green Technology R&D” and its Commercialization
23. Support for SME “Green Partnerships”
24. Research, Supply, or Workforce Development Investment Tax Deductions for “Care Technologies” under RSTA Article 10(1)(2)
25. Tax Reductions and Exemptions in Free Economic Zones
26. Exemptions and Reductions of Lease Fees in Free Economic Zones
27. Grants and Financial Support in Free Economic Zones
28. Sharing of Working Opportunities / Employment Creating Incentives
29. Dongbu’s Debt Restructuring
30. PDC – Various Transactions with KDB during 2015
31. Korea Finance Corporation / KDB Facility Loans
32. KDB Usance Loans
33. IBK Short-Term Discounted Loans for Export Receivables
34. KEXIM Import Financing

D. Programs for Which More Information is Required

1. Provision of Carbon Emissions Permits by the GOK

POSCO reported that it and its cross-owned affiliates POSCO Chemical, PNR, and POSCO International received carbon emissions permits from the GOK during the POR.²³⁴ However, in analyzing responses submitted by POSCO and the GOK on this program, we find that we lack sufficient information to make a preliminary determination regarding this program. Therefore, we intend to issue supplemental questionnaires to POSCO and the GOK after this preliminary determination, and to conduct a post-preliminary analysis on this program.

²³⁴ See POSCO CEP NSA QR at 2.

XI. RECOMMENDATION

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



Agree

Disagree

7/30/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance