

DATE: January 8, 2008

MEMORANDUM TO: David M. Spooner
Assistant Secretary
for Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Countervailing Duty
Administrative Review on Corrosion-Resistant Carbon Steel
Flat Products from Korea

Summary

We have analyzed the comments of the interested parties on the preliminary results of the 2005 administrative review of the countervailing duty order covering corrosion-resistant carbon steel flat products from Korea. As a result of our analysis of the comments received from interested parties, we have made changes to the calculation of benefits provided to Pohang Iron & Steel Co., Ltd. (“POSCO”) under the Research and Development Grants Under the Industrial Development Act as discussed in comment 2 below. We recommend that you approve the positions described in the “Discussion of Issues” section of this memorandum.

Company-Specific Issues

1. Whether Certain Research and Development (“R&D”) Grants Under the Industrial Development Act (“IDA”) Provide Countervailable Benefits
2. Calculation of R&D Benefits to POSCO

Background

On September 10, 2007, the Department of Commerce (“the Department”) published the preliminary results of the administrative review of the countervailing duty order on corrosion-resistant carbon steel flat products from Korea. See Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review, 72 FR 51602 (September 10, 2007) (“Preliminary Results”). The period of review

(“POR”) is January 1, 2005 through December 31, 2005.

We invited parties to comment on our preliminary results of review. Based on our analysis of the comments received, we have changed the calculation for POSCO in the final results, and POSCO retained its de minimis rate.

Discussion of the Issues

Company Issues

Comment 1: Whether Certain R&D Grants Under the IDA Provide Countervailable Benefits

POSCO notes that in the Preliminary Results the Department found that certain R&D grants received through the Korea New Iron and Steel Technology Research Association (“KNISTRA”) were tied to non-subject merchandise and therefore did not provide a countervailable subsidy to subject merchandise. POSCO also notes that the Department found that POSCO received certain other grants related to a production process that can be used for an input into the production of subject merchandise. See Preliminary Results, 72 FR at 51605. POSCO contends that, in fact, none of the R&D projects were related to subject merchandise.

Specifically, POSCO argues that, as previously reported, the grants in question involve a new technology for producing a hot-rolled steel product that is still under development and that would be classified as a non-subject “other alloy steel” product under the Harmonized Tariff Schedule of the United States. POSCO further argues that since the subject merchandise is “carbon steel,” any hot-rolled steel produced using the technologies developed using these R&D grants could not be used as an input into the production of subject merchandise.¹ Therefore, POSCO contends that there is no basis for the Department to find that the R&D grants provided for the development of these technologies provide a countervailable subsidy to subject merchandise.

The Department’s Position:

In our Preliminary Results we indicated that certain of the grants received by POSCO related to a production process that can be used for an input into the production of subject merchandise. See Preliminary Results, 72 FR at 51605. This determination was based on our review of the information provided in POSCO’S December 21, 2006, Questionnaire Response, at Exhibit 6.

With respect to POSCO’s argument that the R&D project related to “other alloy steel” that could not be used in the production of subject merchandise, POSCO did not point to any record information demonstrating that this new technology is limited to the development of “other alloy steel” products. Neither has POSCO pointed to any record information to show that the R&D

¹ POSCO notes that in the preliminary calculation memorandum, the Department incorrectly used the names of grants provided during a prior review.

project in question could not be used in the hot-rolled technology for carbon steel products. Therefore, we continue to find that this project provides countervailable benefits in these final results.

Comment 2: Calculation of R&D Benefits to POSCO

POSCO argues that if the Department continues to determine that certain grants provided by KNISTRA confer countervailable subsidies to the production of subject merchandise, then the Department must correct its preliminary calculations. Specifically, POSCO argues that the Department must recognize that one of the grants was divided between POSCO and another unaffiliated company. As such, POSCO argues that the portion of the grant provided to the other company should not be attributed to POSCO for purposes of calculating any subsidy from this R&D program. Rather, the Department should countervail only that portion of the grant received by POSCO.

The Department's Position:

We agree that with respect to the grant in question, we inadvertently included the entire grant amount in our calculation; not just the portion of the grant that was attributable to POSCO. We have adjusted our calculation in these final results by measuring the benefit to POSCO based solely on the amount of the financial contribution received by POSCO. Because POSCO and the other company that received a portion of the grant do not have any cross-ownership, the other company's portion of the grant is not attributable to POSCO. See 19 CFR 351.525(b)(6). As a result, POSCO's benefit from the R&D program in these final results is 0.09 percent ad valorem.

Recommendation:

Based on our analysis of the comments received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review and the final net subsidy rates for the reviewed firms in the Federal Register.

Agree _____

Disagree _____

David M. Spooner
Assistant Secretary
for Import Administration

(Date)