




UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

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Investigation
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E&C/O VII: ML/JJZ

DATE: November 2, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh 
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Affirmative
Determination: Countervailing Duty Investigation of Certain
Corrosion-Resistant Steel Products from the Republic of Korea

I. SUMMARY

The Department of Commerce (Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain corrosion-resistant steel products (corrosion-resistant steel) from the Republic of Korea (Korea), as provided for in section 703 of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

A. Initiation and Case History

On June 3, 2015, the Department received a countervailing duty (CVD) petition concerning imports of corrosion-resistant steel from Korea, filed on behalf of United States Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., ArcelorMittal USA, LLC, AK Steel Corporation, and California Steel Industries, (collectively, Petitioners).¹ On June 23, 2015, the Department initiated a CVD investigation of corrosion-resistant steel from Korea.² Supplements to the petition and our consultations with the Government of Korea (GOK) are described in the Initiation Checklist.³

¹ See "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports: Certain Corrosion-Resistant Steel Products from the People's Republic of China, India, Italy, the Republic of Korea, and Taiwan," dated June 3, 2015 (Petitions).

² See *Certain Corrosion-Resistant Steel Products from the People's Republic of China, India, Italy, the Republic of Korea, and Taiwan: Initiation of Countervailing Duty Investigations*, 80 FR 37223 (June 30, 2015) (*Initiation Notice*).

³ See "Countervailing Duty Investigation Initiation Checklist: Certain Corrosion-Resistant Steel Products from the Republic of Korea," dated June 23, 2015 (Initiation Checklist).



In the “Respondent Selection” section of the *Initiation Notice*, the Department stated that it intended to select respondents based on U.S. Customs and Border Protection (CBP) data.⁴ Accordingly, on June 26, 2015, the Department released the CBP data to all interested parties under an administrative protective order (APO), and requested comments regarding the data and respondent selection.⁵ We received comments on the CBP data from Dongkuk Steel Mill Co., Ltd. (Dongkuk), Hyundai Steel Co., Ltd. (Hyundai), and Nucor Corporation on July 7, 2015. We received rebuttal comments from Dongbu Steel Co., Ltd. (Dongbu), Dongkuk, and POSCO on July 10, 2015. In its comments Dongkuk noted it was the successor-in-interest to Union Steel Manufacturing Co. Ltd. (Union), as Union was merged into its parent company, Dongkuk, on January 1, 2015.

The Department also received requests from the following parties to be considered for voluntary respondent treatment in the event they were not selected as mandatory respondents: Dongkuk,⁶ Hyundai Steel,⁷ and POSCO.⁸ On July 23, 2015, the Department selected Union and Dongbu as mandatory respondents in this investigation, pursuant to section 777A(e)(2) of the Act and 19 CFR 351.204(c)(2).⁹ With regard to companies requesting voluntary respondent treatment, we stated that for companies that submitted voluntary responses in accordance with the deadlines and set criteria, we would evaluate the circumstances during the course of the investigation to determine whether the individual examination of those companies would be unduly burdensome and inhibit the timely completion of the investigation.¹⁰ We have determined that the individual examination of voluntary respondents would be unduly burdensome and would inhibit the timely completion of this investigation.¹¹ Therefore, we have not analyzed the voluntary responses received.

On July 24, 2015, the Department issued a CVD questionnaire to the GOK. We instructed the GOK to forward the questionnaire to the selected mandatory respondents.¹² Dongkuk and Dongbu submitted initial questionnaire responses on August 14, 2015 (Section III of the questionnaire on Affiliated Companies). In its response Dongkuk stated it was the surviving entity of the merger of Union into Dongkuk. On September 10 and 11, 2015, Dongkuk and Dongbu, respectively, submitted responses to the *remaining sections of the questionnaire*.¹³ Dongbu reported that it exported sales through Soonhong Co., Ltd., (Soonhong) an unaffiliated trading company.

⁴ *Id.*, 80 FR at 37226.

⁵ See Memorandum to the File from Myrna Lobo, International Trade Compliance Analyst, “Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the Republic of Korea: Customs Entry Data for Respondent Selection,” (June 26, 2015) (Customs Data Memo).

⁶ See Dongkuk letters dated June 22, 2015 and June 24, 2015.

⁷ See Hyundai Steel letters dated June 23, 2015 and June 24, 2015.

⁸ See POSCO letter dated June 29, 2015.

⁹ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Respondent Selection for the Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the Republic of Korea” (July 23, 2015) (Respondent Selection Memorandum).

¹⁰ *Id.*

¹¹ See Memorandum to Edward Yang, Director, Office VII, “Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the Republic of Korea: Whether to Select Additional Mandatory and/or Voluntary Respondents,” dated concurrently with this memorandum.

¹² See Letter from Thomas Gilgunn, Program Manager, AD/CVD Operations Office VII, “Certain Corrosion-Resistant Steel Products from the Republic of Korea: Countervailing Duty Questionnaire” (July 24, 2015) (Initial CVD Questionnaire).

¹³ See Dongkuk August 14, 2015 submission (Dongkuk AQR) and September 10, 2015, submission (Dongkuk IQR), and Dongbu August 14, 2014 submission (Dongbu AQR) and September 11, 2015, submission (Dongbu IQR).

Accordingly, Soonhong also responded separately to the Department's questionnaire.¹⁴ The GOK submitted its initial questionnaire response on September 14, 2015.¹⁵

In August, September, and October 2015, the Department issued supplemental questionnaires to the GOK, Union/Dongkuk, and Dongbu. Responses to these questionnaires were received between September 10, 2015, and October 26, 2015.

On July 24, 2015, Petitioners alleged that critical circumstances exist regarding imports of corrosion-resistant steel from Korea, among other countries.¹⁶ On August 3, 2015, POSCO rebutted Petitioners' allegation.

On October 9, 2015, one of the petitioners, Nucor, filed a creditworthiness allegation with respect to Dongbu.¹⁷ On October 15, 2015, Dongbu filed comments opposing the allegation.¹⁸

On October 7, 2015, one of the petitioners, Nucor, submitted factual information with regard to benchmark data for the Preliminary Determination calculations.¹⁹ On October 19, 2015, Dongbu filed rebuttal comments.²⁰

Petitioners filed comments in advance of this preliminary determination on October 26, 2015.²¹ To the extent possible, we have considered these comments in making this determination.

B. Postponement of Preliminary Determination

On August 13, 2015, the Department postponed the deadline for the preliminary determination until no later than 130 days after the initiation of the investigation, based on a request from Petitioners. The Department postponed the preliminary determination until November 2, 2015, in accordance with sections 703(c)(1) and (2) of the Act and 19 CFR 351.205(f)(1).²²

¹⁴ See Soonhong Co., Ltd.'s September 11, 2015, submission (Soonhong IQR).

¹⁵ See GOK Initial Questionnaire Response, dated September 14, 2015 (GOK IQR).

¹⁶ See Petitioners Letter "Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Critical Circumstances Allegations" dated July 24, 2015.

¹⁷ See Letter from Nucor Corporation, "Re: Corrosion-Resistant Steel Products from South Korea: Dongbu Creditworthiness Allegation," dated October 9, 2015.

¹⁸ See Dongbu's Letter "Corrosion-Resistant Steel Products from South Korea, Case No.C-580-879: Response to Petitioner's Creditworthiness Allegation," dated October 15, 2015.

¹⁹ See Nucor Letter "Corrosion-Resistant Steel Products from South Korea: Submission of Factual Information – Benchmark Data" dated October 7, 2015.

²⁰ See Dongbu's Letter "Corrosion-Resistant Steel Products from South Korea, Case No.C-580-879; Rebuttal Benchmark Comments," dated October 19, 2015.

²¹ See Letter from Petitioners, "Corrosion-Resistant Steel Products from the Republic of Korea: Comments in Advance of the Department's Preliminary Determination," October 26, 2015.

²² See *Countervailing Duty Investigations of Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Postponement of Preliminary Determinations*, 80 FR 48499 (August 13, 2015).

C. Period of Investigation

The period of investigation (POI) is January 1, 2014, through December 31, 2014.

III. SCOPE COMMENTS

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice.²³

We received several comments concerning the scope of the antidumping duty (AD) and CVD investigations of corrosion-resistant steel from, *inter alia*, Korea. We are currently evaluating the scope comments filed by the interested parties. We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigations, which are due for signature on December 21, 2015. We will incorporate the scope decisions from the AD investigations into the scope of the final CVD determinations after considering any relevant comments submitted in case and rebuttal briefs.

IV. SCOPE OF THE INVESTIGATION

The products covered by this investigation are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been "worked after rolling" (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

- (1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, 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

²³ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*CVD Preamble*); see also *Initiation Notice*.

with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

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

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

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

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high strength low alloy (HSLA) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels.

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

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (“terne plate”), or both chromium and chromium oxides (“tin free steel”), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;

- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

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

V. PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES

On July 23, 2015, Petitioners filed allegations that critical circumstances exist with respect to imports of subject merchandise from all five countries under investigation.²⁴ On October 29, 2015, the Department issued its preliminary critical circumstances determinations for all five countries.²⁵ Pursuant to this determination, the Department determined that critical circumstances exist for imports of subject merchandise from “All Other” producers and exporters and critical circumstances did not exist for the mandatory respondents Dongbu and Union/Dongkuk.

VI. INJURY TEST

Because Korea is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Korea materially injure, or threaten material injury to, a U.S. industry. On July 16, 2015, the ITC preliminarily

²⁴ See Letter from Petitioners, “Corrosion-Resistant Steel Products from India, Italy, the People’s Republic of China, the Republic of Korea, and Taiwan: Critical Circumstances Allegations,” July 23, 2015.

²⁵ See *Antidumping and Countervailing Duty Investigations of Corrosion-Resistant Steel Products from India, Italy, the People’s Republic of China, the Republic of Korea, and Taiwan: Preliminary Determination of Critical Circumstances*, 80 FR ____ (November __, 2015) (signed October 29, 2015).

determined that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of certain corrosion-resistant steel products from Korea.²⁶

VII. SUBSIDIES VALUATION

A. Allocation Period

The Department normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise.²⁷ The Department finds the AUL in this proceeding to be 15 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System.²⁸ The Department notified the respondents of the 15-year AUL in the initial questionnaire and requested data accordingly. None of the interested parties disputed this allocation period. Therefore, we will allocate non-recurring benefits over the 15-year AUL.

Furthermore, for non-recurring subsidies, we applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies provided under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the year in which the assistance was approved. 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 over the AUL.

B. Attribution of Subsidies

The Department's regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) directs that the Department will attribute subsidies received by certain other companies to the combined sales of those companies if (1) cross-ownership exists between the companies, and (2) the cross-owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross-owned company. Further, 19 CFR 351.525(c) provides that benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm producing the subject merchandise that is sold through the trading company, regardless of affiliation.

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 the Department's authority to attribute subsidies based on whether a company could use or direct the

²⁶ See ITC Preliminary Report; *see also Certain Corrosion-Resistant Steel Products from China, India, Italy, Korea, and Taiwan*, 80 FR 44151 (July 24, 2015).

²⁷ See 19 CFR 351.524(b).

²⁸ See U.S. Internal Revenue Service Publication 946 (2008), "How to Depreciate Property," at Table B-2: Table of Class Lives and Recovery Periods.

subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.²⁹

Union/Dongkuk

Dongkuk reported that it was the parent of Union, the selected mandatory respondent in this investigation, and held a majority share of the company during the POI.³⁰ Dongkuk reported that only Union produced corrosion-resistant steel in Korea during the POI, and that, as a subsidiary of Dongkuk, Union was included in Dongkuk's 2014 consolidated financial statements.³¹ Further, Dongkuk reported that following the January 1, 2015 merger of Union into Dongkuk, Dongkuk absorbed the operations of Union.³² Dongkuk is a publicly traded company listed on the Korean Stock Exchange since 1988. Thus, Dongkuk responded to the initial questionnaire for Union and itself, as the cross-owned parent company of Union. Although Dongkuk reported that certain affiliates were involved in the production and sale of corrosion-resistant steel to the United States, we preliminarily find that the relationship between those companies and Union/Dongkuk does not rise to the level of cross-ownership, or that the companies were subsidiaries in foreign countries or affiliated service providers.³³ Pursuant to 19 CFR 351.525(b)(6)(i) and (iii), we attributed subsidies received by Union to the sales of Union, and subsidies received by Dongkuk to the consolidated sales of Dongkuk.³⁴

Dongbu

Dongbu reported that it is a publicly traded company engaged in the manufacture and distribution of iron and steel products including corrosion-resistant steel.³⁵ Dongbu Incheon was incorporated in May 2014 as a wholly owned subsidiary that also produces subject merchandise.³⁶ As such, Dongbu responded to the initial questionnaire on behalf of itself and Dongbu Incheon. Dongbu reported that during the POI and the AUL period, none of its other cross-owned affiliates produced subject merchandise, or supplied an input product to Dongbu or Dongbu Incheon for the production of a downstream product, or received a subsidy and transferred it to Dongbu.³⁷ Pursuant to 19 CFR 351.525(b)(6)(ii), we attributed subsidies received by Dongbu and/or Dongbu Incheon to the sales of both companies.³⁸

Dongbu also reported that it made export sales of corrosion-resistant steel to the United States through two unaffiliated trading companies – Soonhong and JWK Corporation (JWK). In addition, Dongbu Incheon also exported subject merchandise to the United States through Soonhong during the POI. In accordance with the Department's questionnaire, Soonhong submitted a complete

²⁹ See *Fabrique de Fer de Charleroi SA v. United States*, 66 F. Supp. 2d 593, 603 (CIT 2001).

³⁰ See Dongkuk AQR at 3.

³¹ *Id.* at 3, and Dongkuk IQR at 2-4 and 10.

³² See Dongkuk AQR at 4.

³³ *Id.* at 4-5.

³⁴ See Dongkuk Preliminary Calculation Memorandum.

³⁵ See Dongbu IQR at 5.

³⁶ *Id.* at 6.

³⁷ See Dongbu AQR at 5-6.

³⁸ See Dongbu Preliminary Calculation Memorandum.

questionnaire response but reported that it did not receive benefits from any of the alleged subsidies in this investigation during the POI or AUL period. Because the quantity exported through JWK is negligible, the Department did not request JWK to respond to the questionnaire.

C. Denominators

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, the Department considers the basis for the respondents' receipt of benefits under each program. As discussed in further detail below in the "Programs Preliminarily Determined to be Countervailable" section, 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.

VIII. BENCHMARKS AND DISCOUNT RATES

Section 771(5)(E)(ii) of the Act states that the benefit for loans is the "difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market," indicating that a benchmark must be a market-based rate. In addition, 19 CFR 351.505(a)(3)(i) stipulates that when selecting a comparable commercial loan that the recipient "could actually obtain on the market" the Department will normally rely on actual loans obtained by the firm. However, when there are no comparable commercial loans, the Department "may use a national average interest rate for comparable commercial loans," pursuant to 19 CFR 351.505(a)(3)(ii).

A. Short-Term Korean Won-Denominated Loans

Union reported receiving short-term import financing from the Korea Export-Import Bank (KEXIM) during the POI.³⁹ Union provided information about short-term loans from commercial banks for consideration as comparable commercial loans for purposes of identifying an interest rate benchmark. We preliminarily determine that some of the loans Union identified constitute comparable commercial loans, and it is appropriate to use these loans to calculate a weighted-average benchmark interest rate.⁴⁰

Dongbu received loans under the Korea Development Bank (KDB) short-term discounted loan program and the debt restructuring program during the POI.⁴¹ Dongbu provided information about short-term loans from commercial banks for consideration as comparable commercial loans for purposes of identifying a short-term loan interest rate benchmark. We preliminarily determine that some of the loans Dongbu identified constitute comparable commercial loans, and it is appropriate to use these loans to calculate a weighted-average short-term loan benchmark interest rate.⁴²

³⁹ See Dongkuk IQR at 24.

⁴⁰ See Dongkuk Preliminary Calculation Memorandum.

⁴¹ See Dongbu IQR at 27.

⁴² See Dongbu Preliminary Calculation Memorandum.

B. Long-Term Korean Won-Denominated Loans

During the POI, Dongbu had outstanding countervailable long-term loans including the KEXIM import financing program.⁴³ In addition, Dongbu also had restructured long-term debts/loans and received new long-term financing under its debt restructuring program. As the Department preliminarily found that Dongbu was uncreditworthy during the POI,⁴⁴ we added a risk premium to the benchmark rate in accordance with 19 CFR 351.505(a)(3)(iii), to measure Dongbu's countervailable long-term debts/loans during the POI.

C. Creditworthiness

As noted above, Nucor submitted an allegation with respect to the creditworthiness of Dongbu for the years from 2012 to 2014. The Department has determined that Nucor's allegation satisfied the requirements of 19 CFR 351.505(a)(6)(i).⁴⁵ Accordingly, we have analyzed the information on the record and we preliminarily determine that Dongbu was uncreditworthy in 2014, the year in which it received countervailable long-term loans from the government policy banks and restructured long-term debt held by government policy banks.⁴⁶ Parties wishing to comment on this issue should do so as part of their case briefs, as described below in the section entitled, "Disclosure and Public Comment."

IX. ANALYSIS OF PROGRAMS

Based upon our analysis and the responses to our questionnaires, we preliminarily determine the following:

A. Programs Preliminarily Determined to Be Countervailable

1. Korea Export-Import (KEXIM) Bank Import Financing

This program was introduced in July of 1976 to assist companies that import essential goods or natural resources that are important to Korea's national economy. The program is administered by KEXIM, a corporation wholly-owned by the GOK, incorporated under the KEXIM Act. Under this program, KEXIM extends loans up to 80 percent of the transaction value for a maximum period of two years.⁴⁷ The laws and regulations pertaining to this program are Article 18(1)2 of the KEXIM Act – Income important to the national economy; and, Chapter 2 Section (1) of the Loan Extension Regulations.⁴⁸ The Department has previously countervailed this program.⁴⁹

⁴³ See Dongbu IQR at 25.

⁴⁴ See Memorandum to Edward Yang, Director, AD/CVD Operations, Office VII, "Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the Republic of Korea: Analysis of Dongbu Steel Co., Ltd.'s Uncreditworthiness and Preliminary Uncreditworthiness Determination," dated concurrently with this memorandum.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ See GOK IQR, Appendices Volume at 65.

⁴⁸ *Id.* at 67.

According to the GOK, any Korean company is eligible for the “Import Financing Program” as long as the company can satisfy the criteria laid out in the statute and regulations, and KEXIM’s approval of the financing application is based on the application and financial status of the applicant company.⁵⁰

Union and Dongbu received loans from KEXIM under this program. KEXIM is a GOK policy bank, owned and controlled by the GOK.⁵¹ As the Department noted in *NOES Final*, policy banks are created by a government in order to implement government industrial policies through the provision of financing to industries and enterprises; thus a policy bank, by its very nature, is an authority under section 771(5)(B) of the Act.⁵² Therefore, we preliminarily determine that loans under this program constitute financial contributions, pursuant to sections 771(5)(B)(i) and 771(5)(D)(i) of the Act, and also provide a benefit equal to the difference between what respondents paid on their loans and the amount they would have paid on comparable commercial loans, within the meaning of section 771(5)(E)(ii) of the Act.

Regarding specificity, information submitted by the GOK shows that loans provided under the program are available to any enterprise that meets the criteria as described above. Further, the GOK reported that eligibility is not limited by law to any enterprise or group of enterprises, or to any industry or group of industries. Therefore, we preliminarily determine that there is no basis to find this program *de jure* specific under section 771(5A)(D)(i) of the Act.

In determining whether this program is *de facto* specific, we examine the four *de facto* specificity factors under section 771(5A)(D)(iii) of the Act. The GOK provided program usage data for 2011 through 2014 showing the amount of assistance provided to the industry to which respondents belong, as well as the number of recipients that received loans and the total amount financed for the same period.⁵³ We preliminarily determine that actual recipients of the subsidy are limited in number, within the meaning of section 771(5A)(D)(iii)(I) of the Act, because only a limited number of companies received loans under this program from 2011 through 2014. Thus, we find the program to be *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.

To calculate the benefit under this program, we used the benchmarks described in the Benchmarks and Interest Rates section above, as well as the methodology described in 19 CFR 351.505(c) to calculate the interest that Union and Dongbu would have paid on a comparable commercial loan during the POI and divided that benefit by each company’s total sales. On this basis, we preliminarily determine that Dongbu received a countervailable subsidy of 0.05 percent *ad valorem*.⁵⁴ However, the calculation of the benefit for Union results in a rate that is less than 0.005

⁴⁹ See *Dynamic Random Access Memory Semiconductors from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review*, 74 FR 38579 (August 4, 2009) at 38583, unchanged in Final Results, 74 FR 60238 (November 20, 2009).

⁵⁰ See GOK IQR Appendices Volume at 71.

⁵¹ *Id.* at 69; see also discussion under ‘Dongbu’s Debt Restructuring’ section.

⁵² See *Non-Oriented Electrical Steel From the Republic of Korea: Final Negative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 79 FR 61605 (October 14, 2014), and the accompanying IDM at Comment 7 (*NOES Final*).

⁵³ See GOK IQR Appendices Volume at 74-75.

⁵⁴ See Dongbu Preliminary Calculation Memorandum.

percent.⁵⁵ As such, this program does not have an impact on Union/Dongkuk's overall subsidy rate. Consistent with our past practice, we did not include this program in our next subsidy rate calculations for Union/Dongkuk.

2. Korea Development Bank (KDB) and Industrial Base Fund (IBF) Short-Term Discounted Loans for Export Receivables

The Department has previously determined that short-term export financing in the form of discounted documents against acceptance (D/A) loans issued by the KDB and other GOK policy banks are countervailable.⁵⁶ During the POI, Dongbu received D/A financing from the KDB for its export of subject merchandise to the United States.⁵⁷ The KDB is a wholly government-owned policy bank.⁵⁸ As noted above under the 'Import Financing' program, policy banks are created by a government in order to implement government industrial policies through the provision of financing to industries and enterprises; thus a policy bank, by its very nature, is an authority under section 771(5)(B) of the Act.⁵⁹ Thus, the Department preliminarily determines that the KDB, operated as a wholly state-owned policy bank, provided a financial contribution through a direct transfer of funds to the respondents under section 771(5)(D)(i) of the Act. We also preliminarily determine that KDB lending is specific in accordance with section 771(5A)(A) and (B) of the Act, as the financing offered by the KDB is contingent upon export performance. A benefit within the meaning of section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that the recipient pays a lower discounted rate of interest on the loans than it would pay on a comparable short-term commercial loan.

Only Dongbu reported using this program. To calculate the benefit, we used the benchmarks described in the Benchmarks and Interest Rates section above, as well as the methodology described in 19 CFR 351.505(c) to calculate the interest that Dongbu would have paid on a comparable commercial loan during the POI and divided that benefit by Dongbu's total export sales of the subject merchandise to the United States during the POI. On this basis, we preliminarily determine that Dongbu received a countervailable subsidy rate of 0.01 percent *ad valorem*.⁶⁰

3. Dongbu's Debt Restructuring

According to its response, Dongbu Steel operates in the construction and steel manufacturing areas that were impacted by the downturn in the global economy that began in 2012.⁶¹ As a result, by 2013 Dongbu Steel began to face liquidity problems and began selling shares of subsidiaries.⁶² On March 12, 2014, Dongbu spun off its Incheon Plant and established Dongbu Incheon Steel Co. Ltd.,

⁵⁵ See Dongkuk Preliminary Calculation Memorandum.

⁵⁶ See *Coated Free Sheet Paper from the Republic of Korea: Notice of Final Affirmative Countervailing Duty Determination*, 72 FR 60639 (October 17, 2007), and the accompanying IDM at 17-18.

⁵⁷ See Dongbu IQR at 26-27.

⁵⁸ See GOK's IQR at Exhibit BANK-3 for KDB Annual Reports.

⁵⁹ See *NOES Final*, and the accompanying IDM at Comment 7.

⁶⁰ See Dongbu Preliminary Calculation Memorandum.

⁶¹ See Dongbu IQR at 35-36.

⁶² *Id.* at 37.

as a means to induce capital for improvement of its financial structure.⁶³ In order to raise needed capital, it was proposed to sell Dongbu Incheon and another subsidiary to POSCO,⁶⁴ one of Korea's largest steel manufacturers.

On June 27, 2014, Dongbu announced the failure of its planned sale of several subsidiaries to POSCO, leaving Dongbu with no other option but to apply for one of the GOK's financial restructuring programs.⁶⁵ Three days later, Dongbu applied for a Corporate Voluntary Restructuring Program under the Creditor Banks' Committee Agreement.⁶⁶ Dongbu stated that it applied for the voluntary corporate restructuring program because the company had issued public bonds which had covenants not to apply for a workout program or for a court reorganization program.⁶⁷ If Dongbu violated the covenants, public bond holders could exercise their call options for early repayment before the maturity date of the bonds.⁶⁸

The GOK and Dongbu reported that among the nine creditor banks on the Dongbu Steel Creditor Banks Committee (Creditor Bank Committee), KDB, Korea Financial Corporation (KoFC), KEXIM, Woori Bank (Woori) and Industrial Bank of Korea (IBK) were majority government-owned during the POI, while the four remaining were private commercial banks (Nonghyup Bank, Shihan Bank, Hana Bank, Korea Exchange Bank).⁶⁹ The KDB was the prime creditor bank of Dongbu.⁷⁰ The Creditor Bank Committee reviews and votes on the debt restructuring and credit extension plan for Dongbu. Resolutions and decisions of the Creditor Bank Committee are passed by affirmative votes of creditor financial institutions that hold at least 75 percent of the outstanding debt obligations.⁷¹

The Creditor Bank Committee held a series of meetings during 2014 to resolve how to restructure Dongbu's debt. Dongbu reported that on July 7, 2014, the first Creditor Bank Committee meeting was held which established the participation of the above listed nine banks in Dongbu's debt restructuring.⁷² At the second meeting held on July 21, 2014, the Creditor Bank Committee approved certain emergency operating loans for Dongbu.⁷³ The Creditor Bank Committee then approved a debt restructuring plan which provided for:

- the conversion of some of Dongbu's debt into equity;
- the issuance of certain new loans; and
- the restructure of certain existing loans, corporate bonds, and L/C Usance loans.⁷⁴

Section 771(5)(B) of the Act defines an "authority" as a government of a country or any public entity within the territory of the country. KDB,⁷⁵ KoFC,⁷⁶ and KEXIM⁷⁷ are majority government-

⁶³ *Id.* at 38.

⁶⁴ *Id.*

⁶⁵ *See* Dongbu IQR at 39.

⁶⁶ *See* Dongbu's IQR at 41, and Exhibit DEBT-5.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.* at 48; *see also*, GOK's IQR at 53.

⁷⁰ *See* GOK IQR at 49.

⁷¹ *Id.* at 50.

⁷² *See* Dongbu's IQR at 41, and Exhibit DEBT-5.

⁷³ *Id.* at 42, and Exhibit DEBT-7.

⁷⁴ *Id.* at 43, and Exhibit DEBT-8.

owned policy banks. As the Department noted in *NOES Final*, policy banks are created by a government in order to implement government industrial policies through the provision of financing to industries and enterprises; thus a policy bank, by its very nature, is an authority under section 771(5)(B) of the Act.⁷⁸ We also note that Woori's 2014 Form 20-F filing with the SEC states that "...So long as the Korean government remains our controlling shareholder, it will have the ability to cause us to take actions or pursue policy objectives that may conflict with the interests of our other shareholders. For example, in order to further its public policy goals, the Korean government could request that we participate with respect to a takeover of a troubled financial institution or encourage us to provide financial support to particular entities or sectors."⁷⁹ As for IBK, information on the record demonstrates that "...the Korean government has full control over IBK's management, policies and operations pursuant to the IBK Act."⁸⁰ Therefore, we preliminarily determine that each of the five GOK-controlled banks (*i.e.*, KDB, KoFC, KEXIM, Woori, and the IBK) are authorities under section 771(5)(B) of the Act. We also preliminarily determine that under this debt restructuring these five authorities provided a financial contribution to Dongbu as defined under section 771(5)(D)(i) of the Act.

We will continue to closely examine whether an additional creditor, Nonghyup Bank, would fall within the definition of an "authority" under section 771(5)(B) of the Act. Information on the record shows that while it may not have direct government ownership, it is a specialized bank created by the Government of Korea with a role of implementing the GOK's agriculture-related financing policies.⁸¹ We invite interested parties to comment on this issue in their case briefs.

With respect to specificity, the GOK stated that Dongbu was one of a very limited number of companies that went through restructuring by creditors' councils during the POI and the immediately preceding three years.⁸² The restructuring of Dongbu's debt was not overseen by an independent party. Instead, Dongbu's debt restructuring was controlled by the Creditor Bank Committee, which in turn was controlled by GOK policy banks such as the KDB.⁸³ One of the key policy roles of the KDB is to bail-out or restructure troubled or failed corporations.⁸⁴ Because the actual recipients of financing pursuant to restructurings by creditors' councils are limited in number, this subsidy is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act.

⁷⁵ *Id.*

⁷⁶ KDB and KoFC merged in 2014. See GOK's IQR at Exhibit BANK-3, KDB 2014 Annual Report ("The year 2014 was met with heightening uncertainties that gave rise to concerns over a possible global recession. Various measures to boost the economy were implemented globally, with voices calling for enhanced policy banking functions continuing to grow throughout the year. Amid such atmosphere, KDB merged with Korea Finance Corporation (KoFC) and KDB Financial Group to enhance its business focus on policy financing functions.").

⁷⁷ See GOK's IQR at Exhibit KEXIM-5 for KEXIM's Annual Reports.

⁷⁸ See *NOES Final*, and accompanying IDM at Comment 7.

⁷⁹ See Memorandum to the File, "Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the Republic of Korea: Factual Information on Certain Banks," dated November 2, 2015 (Factual Information on Banks memorandum).

⁸⁰ *Id.*

⁸¹ See, e.g., "Fitch Rates S. Korea's Nonghyup Bank 'A'; Outlook Stable; "Moody's Assigns A1 to Nonghyup Bank's Proposed EUR Senior Notes; "Moody's Investors Service Banking System Profile Korea; "and "NACF Corporate Reorganization Scheme Overview" which are attached to the Factual Information on Banks memorandum.

⁸² See GOK IQR at 55.

⁸³ *Id.* at 48.

⁸⁴ See GOK's IQR at Exhibit BANK-3 for KDB Annual Reports.

As noted above, the Creditor Bank Committee approved a debt restructuring plan which provided for the conversion of some of Dongbu's debt into equity; the issuance of certain new loans; and the restructure of certain existing loans, corporate bonds, and L/C Usance loans. The issuance of new loans and the restructuring of outstanding debt occurred during the POI; however, the conversion of debt-to-equity took place in 2015, after the POI. Because the debt-to-equity conversion took place after the POI, we have not analyzed whether this conversion provided a benefit to Dongbu.⁸⁵

Under section 771(5)(E)(ii) of the Act, there is a benefit with respect to the provision of a loan, if there is a difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market. While there were some private commercial banks involved in the debt restructuring of Dongbu, these banks were part of the Creditor Bank Committee that was controlled by the GOK banks. Consistent with *Refrigerators from Korea*,⁸⁶ we preliminarily determine that the loans from private creditors on the Creditor Bank Committee cannot be construed to be "comparable commercial loans" and thus cannot be used as a commercial benchmark under section 771(5)(E)(ii) of the Act and 19 CFR 351.505(c)(2) because the Creditor Bank Committee is controlled by GOK banks.

To determine the benefit conferred to Dongbu from these loans and loan restructuring, in accordance with 19 CFR 351.505(c)(2), we calculated the benefit from these loans by comparing the interest actually paid on the loans during the POI to what the company would have paid on a comparable loan during the POI. As explained in the "Creditworthiness" section of this memorandum, we have preliminarily determined Dongbu to be uncreditworthy in 2014. Therefore, we have adjusted the benchmark rate using the methodology set forth under 19 CFR 351.505(a)(3)(iii), by adding a risk premium to the discount rate. We then applied this benchmark to both Dongbu's restructured long-term loans and to the new loans it received during the POI. On this basis, we determine a net countervailable subsidy rate of 1.31 percent *ad valorem* for Dongbu.

4. RSTA Article 25(2): Tax Deductions for Investments in Energy Economizing Facilities

The purpose of this program is to facilitate the enhancement of energy efficiency in business sectors through a deduction from taxes payable.⁸⁷ The statutory basis for this program is Article 25(2) of the RSTA, Article 22(2) of the Enforcement Decree of the RSTA, and Article 13(2) of the Enforcement Regulation of RSTA.⁸⁸ The eligible types of facilities investment are identified in Article 22(2) of the RSTA, while Appendix 8-3 of Article 13(2) of the Enforcement Regulation of

⁸⁵ Section 351.508(a) states that in situations where the entities assuming or forgiving the debt receive shares in a firm in return for eliminating or reducing the firm's debt obligations, the Department will determine the existence of a benefit under section 351.507 (equity infusions). Section 351.507(b) states that the Department "normally will consider the benefit to have been received on the date on which the firm received the equity infusion." Although information on the record indicates that the Creditor Bank Committee approved the debt-to-equity conversion in September 2014, the record also indicates that the equity infusion took place when Dongbu's new common shares were issued in February 2015.

⁸⁶ See *Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 17410 (March 16, 2012), and accompanying IDM at 111-114.

⁸⁷ See GOK IQR Appendices Volume at 224.

⁸⁸ *Id.*, Appendices Volume at 226.

the RSTA lists energy related facilities which are eligible for this program, and Appendix 8-4 lists the facilities that are treated as manufacturing facilities for renewable energy production.⁸⁹

The GOK agency that administers this program is the National Tax Service (NTS), under the direction of the Ministry of Strategy and Finance (MOSF).⁹⁰ In order to obtain the tax deduction, the GOK notes that an applicant is required to submit (i) an application for the tax deduction and (ii) the report of the taxation scale to the NTS which then reviews the materials submitted to determine the eligibility pursuant to the relevant laws and regulations.⁹¹ Article 25(2) of the RSTA stipulates that ten percent of the eligible investment can be deductible from the taxes payable by a corporation or an individual taxpayer.⁹²

Information provided by the GOK demonstrates that only a limited number of companies claimed this tax credit in 2014.⁹³ Accordingly, we preliminarily determine that this program is *de facto* specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because the actual number of recipients is limited. This finding is consistent with *NOES* and *Large Residential Washers*, in which we relied on information that is comparable to that which the GOK provided in the current investigation.⁹⁴ This program results in a financial contribution from the GOK to recipients in the form of revenue foregone, as described in section 771(5)(D)(ii) of the Act. The benefit conferred on the recipient is the difference between the amount of taxes it paid and the amount of taxes that it would have paid in the absence of this program, as described in 19 CFR 351.509(a), effectively, the amount of the tax credit claimed.

Only Union reported receiving benefits under this program. To calculate the benefit received, we divided the amount of the tax savings received by Union by its total sales during the POI. On this basis, we preliminarily determine that Union received a countervailable subsidy rate of 0.01 percent *ad valorem* under this program.⁹⁵

5. RSTA Article 26: GOK Facilities Investment Support

Article 26 was first introduced through the RSTA in 1982 to encourage companies to make investments “out of the overcrowding control region of the Seoul Metropolitan Area” in their respective fields of business by providing them with tax incentives.⁹⁶ Eligible companies are able to claim a tax credit of up to five percent in eligible investments in facilities.⁹⁷ The GOK states that Article 26 was revised on December 27, 2010, adding job creation as a requirement for companies to qualify for tax deductions for facilities investments, and that the article has been renamed “tax credit

⁸⁹ *Id.*, Appendices Volume at 227.

⁹⁰ *Id.*, Appendices Volume at 224.

⁹¹ *Id.*, Appendices Volume at 237.

⁹² *Id.*, Appendices Volume at 224.

⁹³ *Id.*, Appendices Volume at 242.

⁹⁴ See *NOES Final*, and accompanying IDM at 10; *Large Residential Washers From the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 75975 (December 26, 2012) (*Large Residential Washers*) and accompanying IDM at 13-14.

⁹⁵ See Dongkuk Preliminary Calculation Memorandum.

⁹⁶ See GOK IQR Appendices Volume at 267.

⁹⁷ *Id.*, Appendices Volume at 281.

for employment creating investments.”⁹⁸

The relevant law authorizing the credit, RSTA Article 26, and the implementing law, Article 23 of the Enforcement Decree of the RSTA, limit this program to enterprises or industries within a designated geographical region within the jurisdiction of the authority providing the subsidy.

Accordingly, the Department preliminarily determines that this program is regionally specific in accordance with section 771(5A)(D)(iv) of the Act. This finding is consistent with our determination in *Welded Line Pipe* and *Large Residential Washers*.⁹⁹ The tax credits are a financial contribution in the form of revenue foregone by the government under section 771(5)(D)(ii) of the Act, and provide a benefit to the recipient in the amount of the difference between the taxes it paid and the amount of taxes that it would have paid in the absence of this program, pursuant to 19 CFR 351.509(a)(1).

Only Union reported receiving benefits under this program. To calculate the benefit received, we divided the amount of the tax savings received by Union by its total sales during the POI. On this basis, we preliminarily determine that Union received a countervailable subsidy rate of 0.68 percent *ad valorem* under this program.¹⁰⁰

6. Restriction of Special Local Taxation Act (RSLTA) Article 78: Acquisition and Property Tax Benefits to Companies Located in Industrial Complexes

Dongkuk reported receiving exemptions from acquisition, property, and education taxes under RSLTA Article 78.¹⁰¹ Article 78 provides that any entity acquiring real estate in a designated industrial complex for the purpose of constructing new buildings or renovating existing ones shall be exempted from the acquisition tax. In addition, the entity located in these designated industrial complexes shall have the property tax reduced by 50 percent on the real estate for five years from the date the tax liability becomes effective. The tax exemption is increased to 100 percent if the relevant land, buildings, or facilities are located in an industrial complex outside of the Seoul metropolitan area.¹⁰² The program is administered by the local governments in Korea. The purpose of the program is to promote the development of the underdeveloped areas in Korea and to appropriately allocate the industries nationwide.¹⁰³

During the POI, pursuant to Article 78 of the RSTLA, Dongkuk reported receiving a complete exemption from acquisition taxes based on the location of its Dangjin Mill in the Asan Industrial Complex.¹⁰⁴ Dongkuk also reported it received a complete exemption from property and local education taxes based on the location of its manufacturing facilities in the Asan and Pohang

⁹⁸ *Id.*, Appendices Volume at 263.

⁹⁹ See *Welded Line Pipe From the Republic of Korea: Final Negative Countervailing Duty Determination*, 80 FR 61365 (October 13, 2015), and accompanying IDM at 10; and *Large Residential Washers*, and accompanying IDM at 14; upheld in *Samsung Electronics Co., Ltd. v. United States*, 973 F. Supp. 2d 1321, 1329 (CIT 2014).

¹⁰⁰ See Dongkuk Preliminary Calculation Memorandum.

¹⁰¹ See Dongkuk IQR at Attachment RSLTA-1 at page 2.

¹⁰² See GOK 2nd supplemental questionnaire response dated October 15, 2015 (SQR2), Appendices Volume at 32-33.

¹⁰³ See GOK SQR2, Appendices Volume at 29.

¹⁰⁴ See Dongkuk IQR at Attachment RSLTA-1.

Industrial Complexes.¹⁰⁵ Dongkuk noted that if a company was exempt from property tax, then the company automatically received an education tax exemption.¹⁰⁶ Dongbu also received property tax exemptions and education tax exemptions in connection with the property tax exemptions.¹⁰⁷ We preliminarily determine that the tax reductions constitute a financial contribution in the form of revenue foregone, as described under section 771(5)(D)(ii) of the Act, and a benefit under section 771(5)(E) of the Act and 19 CFR 351.509(a). We further preliminarily determine that the tax exemptions provided under this program are specific under section 771(5A)(D)(iv) of the Act because benefits are limited to enterprises located within designated geographical regions. Our findings in this regard are consistent with the Department's prior determinations.¹⁰⁸

To calculate the benefit, we divided the amount of the tax savings received by Dongkuk and Dongbu by their respective total sales during the POI. On this basis, we preliminarily determine that Dongkuk received a countervailable subsidy rate of 0.01 percent *ad valorem*.¹⁰⁹ However, the calculation of the benefit for Dongbu results in a rate that is less than 0.005 percent.¹¹⁰ As such, this program does not have an impact on Dongbu's overall subsidy rate. Consistent with our past practice, we did not include this program in our net subsidy rate calculations for Dongbu.

B. Programs Preliminarily Determined To Be Not Countervailable

1. Provision of Electricity for Less Than Adequate Remuneration (LTAR)

Petitioners alleged that KEPCO, a state-owned entity, provides electricity to the Korean steel industry, including producers of the subject merchandise, for LTAR. KEPCO was established under the Korea Electric Power Corporation Act and its Enforcement Decree.¹¹¹ KEPCO is an integrated electric utility company engaged in the transmission and distribution of substantially all of the electricity in Korea.¹¹² In addition, through its six wholly-owned generation subsidiaries, KEPCO generates the substantial majority of electricity produced in Korea.¹¹³ KEPCO is under the general supervision of MOTIE.¹¹⁴ MOTIE also has the authority to regulate and supervise the electricity business in Korea.¹¹⁵ Under Korean law, the GOK is required to own, directly or indirectly, at least 51 percent of KEPCO's capital which allows the GOK to control the approval of corporate matters

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*, Attachment RSLTA-1 at 2.

¹⁰⁷ See Dongbu's IQR at 59, and Exhibits LOCAL TAX-1 through LOCAL TAX-3.

¹⁰⁸ See *Welded Line Pipe* and accompanying IDM; see also *Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review*; 2012, 79 FR 16283 (March 25, 2014) and accompanying Preliminary Decision Memorandum at 6-7 (unchanged in *Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea: Final Results of Countervailing Duty Administrative Review*; 2012, 79 FR 46770 (August 11, 2014) and accompanying IDM).

¹⁰⁹ See Dongkuk Preliminary Calculation Memorandum.

¹¹⁰ See Dongbu Preliminary Calculation Memorandum.

¹¹¹ See GOK IQR, Appendices Volume at 5.

¹¹² See GOK IQR at 5 and Appendices Volume at 4.

¹¹³ See KEPCO Form 20-F Filing with the U.S. Securities and Exchange Commission (SEC) at 23-24, provided as Exhibit E-3 to the GOK IQR.

¹¹⁴ *Id.* at 23.

¹¹⁵ See GOK IQR at 5.

relating to KEPCO.¹¹⁶ Accordingly, we preliminarily determine, as we did in the *Welded Line Pipe* investigation,¹¹⁷ that electricity tariffs that are charged by KEPCO are regulated and approved by the GOK. In addition, we preliminarily find that the GOK exercises significant control over KEPCO through its majority ownership and pursues government policy objectives through KEPCO's business and operations.¹¹⁸ Accordingly, we find KEPCO to be an "authority" within the meaning of section 771(5)(B) of the Act. Therefore, we determine that a financial contribution in the form of the provision of a good or service under section 771(5)(D)(iii) of the Act is being provided to producers of the subject merchandise.

With regard to whether a benefit was provided within the meaning of section 771(5)(E)(iv) of the Act, the Department notes there was one electricity tariff schedule in effect during that POI which became effective on November 21, 2013 and remained in effect throughout the POI.¹¹⁹ In order to change (increase or decrease) electricity tariffs, KEPCO first makes an application to MOTIE. When MOTIE receives the application, it consults with the Ministry of Strategy and Finance (MOSF) to discuss how the change will affect the national consumer price index and to make adjustments as necessary. After the consultations with MOSF, MOTIE makes a request to the Electricity Regulatory Commission for a review of KEPCO's application which reflects the results of the consultation with MOSF. After the Commission's review, MOTIE will determine whether to issue an approval for KEPCO's application.¹²⁰

Under 19 CFR 351.511(a)(2), the Department 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 the Department 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 the primary utility company in Korea providing electricity to Korean consumers, and the GOK regulates the rates that KEPCO charges for electricity.¹²¹ KEPCO's Form 20-F Filing with the SEC does state that a minimal amount of electricity is supplied directly to consumers on a localized basis by independent power producers.¹²² However, if the government provider constitutes a majority, or in certain circumstances, a substantial portion of the market, as in this case, the Department determines that prices within the country are distorted and cannot be used for benchmark purposes. Therefore, we determine that a Tier 1 Benchmark (a price within the country) is not available.¹²³

¹¹⁶ See KEPCO Form 20-F Filing with the SEC at 232, provided as Exhibit E-3 to the GOK IQR.

¹¹⁷ See *Welded Line Pipe* and accompanying IDM at 13.

¹¹⁸ See, e.g., KEPCO Form 20-F Filing with the SEC at 5, provided as Exhibit E-3 to the GOK IQR.

¹¹⁹ See GOK IQR at 10.

¹²⁰ *Id.* at 6.

¹²¹ *Id.* at 3, 8-9.

¹²² See KEPCO Form 20-F Filing with the SEC at 12, provided as Exhibit E-3 to the GOK IQR.

¹²³ 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

The next alternative in the benchmark hierarchy is to use world market prices. However, under 19 CFR 351.511(a)(2)(ii), the Department will only use world market prices if the good or service is actually available to the purchaser in the country under investigation. With respect to electricity, the Department has stated that electricity prices from countries in the world market are normally not available to purchasers in the country under investigation.¹²⁴ The GOK has stated that there is no cross-border transmission or distribution of electricity in Korea;¹²⁵ therefore, we determine that we cannot rely on world market prices to determine whether electricity is provided for LTAR.

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.¹²⁶ Therefore, we preliminarily determine to use a Tier 3 Benchmark to determine whether the KEPCO electricity tariffs are set for LTAR. Under a Tier 3 Benchmark analysis, the Department will assess whether the prices charged by KEPCO are set in accordance with market principles through an analysis of such factors as KEPCO's price-setting methods, costs (including rates of return sufficient to ensure future operations), or possible price discrimination.¹²⁷ We have not put these factors in any hierarchy, and we may rely on one or more of these factors in any particular case.¹²⁸

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.

¹²⁴ See *CVD Preamble* at 65377: 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.

¹²⁵ See GOK IQR at 8.

¹²⁶ See *CVD Preamble* 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).

¹²⁷ In *Final Affirmative Countervailing Duty Determinations: Pure Magnesium and Alloy Magnesium from Canada*, 57 FR 30946, 30954 (July 13, 1992) (*Magnesium from Canada*), the Department was analyzing electricity contracts that were provided to 14 companies which purchased such large amounts of electricity that the rates set in the tariff schedule were not applicable. We stated in *Magnesium from Canada*:

As a general matter, the first step the Department takes in analyzing the potential preferential provision of electricity – assuming a finding of specificity – is to compare the price charged with the applicable rate on the power company's non-specific rate schedule. If the amount of electricity purchased by a company is so great that the rate schedule is not applicable, we will examine whether the price charged is consistent with the power company's standard pricing mechanism applicable to such companies. If the rate charged is consistent with the standard pricing mechanism and the company under investigation is, in all other respects, essentially treated no

For purposes of this preliminary determination, under our Tier 3 Benchmark analysis, we assessed whether the prices charged by KEPCO are set in accordance with market principles through an analysis of KEPCO's price-setting method. With respect to KEPCO's price-setting method, the Department stated in *Magnesium from Canada* that we will examine the electricity rates charged to our investigated respondents to determine whether the price charged is consistent with the power company's standard pricing mechanism. If the rate charged is consistent with the standard pricing mechanism and the company under investigation is, in all other respects, essentially treated no differently than other companies and industries which purchase comparable amounts of electricity, then there is no benefit.¹²⁹

With regard to this Tier 3 Benchmark, to develop the electricity tariff schedules that were applicable during the POI, KEPCO first calculated its overall cost including an amount for investment return. This cost includes the operational cost for generating and supplying electricity to the consumers as well as taxes. The cost for each electricity classification was calculated by (1) distributing the overall cost according to the stages of providing electricity (generation, transmission, distribution, and sales); (2) dividing each cost into fixed cost, variable cost, and the consumer management fee; and (3) then calculating the cost by applying the electricity load level, peak level, and the patterns of consuming electricity. Each cost was then distributed into the fixed charge and the variable charge. KEPCO then divided each cost taking into consideration the electricity load level, the usage pattern of electricity, and the volume of the electricity consumed. Costs were then distributed according to the number of consumers for each classification of electricity.¹³⁰

In the instant investigation, Union, Dongkuk, Dongbu, and Dongbu Incheon purchased electricity from KEPCO. The GOK reported that a single tariff rate table applied throughout the POI, and that this tariff rate went into effect on November 21, 2013 and was applicable to the respondents in this investigation.¹³¹ Further, the GOK provided its calculation of electricity costs as well as data showing its cost and investment return pertaining to the POI for the industrial users of electricity.¹³² The GOK provided KEPCO's data that was submitted to MOTIE in 2013 for the tariff in effect during the POI, as well as explained its calculations and recovery costs.¹³³ The GOK stated that KEPCO applied this same price-setting method or standard pricing mechanism to determine the

differently than other industries which purchase comparable amounts of electricity, we would probably not find a countervailable subsidy.

Therefore, the Department will examine the standard pricing mechanism used by the utility company to establish the electricity rates set forth in the tariff schedule. If the rate charged to our respondent is lower than the rates charged to other users but the rates set for the other users as well as the rate charged to our respondent are set using the same "standard pricing mechanism," then the lower rate charged to our respondent would not normally be found countervailable. The principle of the standard pricing mechanism recognizes the commercial and market practices and conditions for the provision of electricity; *i.e.*, that it may be cheaper to provide electricity to very large consumers, therefore, the rates established for those large consumers may be cheaper than the rates established for other electricity consumers. While the rates may be lower for one type of consumer compared to other types of consumers, if the rates are established using the same standard pricing mechanism, then the lower rate does not necessarily provide a countervailable subsidy.

¹²⁸ See *CVD Preamble* at 65378.

¹²⁹ See discussion of *Magnesium from Canada* at footnote 127.

¹³⁰ See GOK IQR at 13-14, and GOK SQR2 at 6-9.

¹³¹ See GOK IQR at 10 and Exhibit E-13; and GOK SQR2 at 10.

¹³² See GOK SQR2 at 6-11.

¹³³ See GOK IQR at 10-11 and GOK SQR2 at 8-9.

electricity tariffs for each tariff classification including the industrial tariff that was paid by the respondents during the POI.¹³⁴ In addition, we preliminarily find that there is no information on the record that Union, Dongkuk, and Dongbu are treated differently from other industrial users of electricity that purchase comparable amounts of electricity because the rates paid were from the applicable tariff schedule applicable to all industrial users. Therefore, consistent with 19 CFR 351.511 and *Magnesium from Canada*, we preliminarily determine that this program provides no benefit to Union, Dongkuk, and Dongbu because the prices charged to these respondents under the applicable industrial tariff were consistent with KEPCO's standard pricing mechanism.

2. VAT Exemption for Purchases of Anthracite Coal

Petitioners alleged that the GOK generally collects a 10 percent value added tax (VAT) on the domestic supply of goods and services and on the importation of goods, but provides exemptions for a limited number of goods, including briquettes and anthracite coal. Petitioners alleged that Korean steel producers are major coal purchasers and thus likely benefitted from this program.

The GOK reported that imports of anthracite coal are exempt from the VAT under RSTA Article 106,¹³⁵ which was introduced in 1979 to promote the development of the national economy.¹³⁶ However, the GOK noted that this program may not provide substantive benefits because all Korean companies receive a tax deduction of the amount equivalent to the VAT that companies pay when importing products from their sales tax amount under Article 38 of the VAT Act.¹³⁷

In the *DRAMS* Investigation,¹³⁸ the Department explained:

Under the GOK's VAT Act, a company is normally assessed a 10 percent VAT on imported equipment used for business. In turn, the company collects a VAT from its customer as part of the price of the goods produced by the company. The VAT paid by the company on the imported equipment is called the "input" tax, while the VAT that the company collects from the customer is called the "output" tax. The company submits a VAT report to the government on a monthly basis (see GOK May 13, 2003 submission), which reconciles the two VAT amounts by paying to the government only the amount by which the output tax exceeds the input tax. Conversely, if the input tax exceeds the output tax, the government refunds the difference to the company. Assessment and reconciliation of this tax burden continues in this manner, down through the distribution chain to the final consumer of the finished product. Thus, ultimately, the company pays nothing to the government and merely conveys the VAT; it is the final consumer, not the producer, who actually pays the VAT to the government.

¹³⁴ See GOK IQR at 12.

¹³⁵ *Id.* at 45.

¹³⁶ *Id.*, Appendix Volume at 145.

¹³⁷ *Id.* at 45-46.

¹³⁸ See *Final Affirmative Countervailing Duty Determination: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 37122 (June 23, 2003) (*DRAMS*) and accompanying IDM at 32.

Respondent companies were exempted from the “input” VAT normally payable at customs clearance on imported equipment for bonded factories under construction pursuant to Article 106 of the RSTA. See Hynix Verification Report and SEC Verification Report.

As we discussed in our preliminary analysis of this program in the Supplemental Preliminary Determination Memo, the Department has examined similar VAT exemptions or remissions in past proceedings and found that the amount of exempted or remitted VAT was, in itself, not countervailable within the meaning of 19 CFR 351.510 and 19 CFR 351.517. The Department further determined that exempting the tax at the time of importation, rather than the alternative, i.e., recovering the tax at the time of reconciliation, conferred no benefit because of the short time difference between the two events. Specifically, in *Thai Hot-Rolled Steel*, the Department found that the VAT was reconciled in the company’s accounting records on a monthly basis, and that the potential time-value windfall from a month’s lag time was insignificant and, therefore, conferred no benefit. See *Thai Hot-Rolled Steel* October 3, 2001 Decision Memorandum, under “VAT Exemptions Under the Investment Promotion Act.”

Section 351.510(a)(1) states that a benefit exists under a remission or exemption of taxes “to the extent that the taxes or import charges paid by a firm as a result of the program are less than the taxes the firm would have paid in the absence of the program.” As indicated in the plain text of the regulation, and as noted in *Shrimp from India*¹³⁹ and *Thai Hot-Rolled Steel*,¹⁴⁰ 19 CFR 351.510(a) makes no distinction between a remission of the tax and an exemption of the tax and, therefore, does not require the Department to apply different means by which to identify and measure benefits that arise from a VAT refund compared to a VAT exemption. Instead, 19 CFR 351.510(a) directs the Department to determine a benefit by assessing whether the producer pays less under the refund or exemption program than it would normally pay without the program.

In the normal reconciliation mechanism for VAT, such as that in Korea, in which input VAT is offset against output VAT, there is no benefit within the meaning of 19 CFR 351.510(a), because the net VAT incidence to the producer is ultimately zero both under the program and in the absence of the program. This holds true whether the program involves a refund as part of the reconciliation mechanism or an exemption that obviates the need for reconciliation in the first place. In other words, 19 CFR 351.510(a) recognizes no distinction between the producer getting a refund instead of an exemption and the producer getting an exemption instead of a refund.

The information on the record of this investigation indicates that the VAT exemptions on anthracite coal operate in the same manner as those previously determined not to confer a benefit. Therefore, based on the Department’s findings in *Thai Hot-Rolled Steel* and the other past proceedings, we preliminarily determine that the VAT exemption program conferred no benefit, and thus, is not countervailable.

¹³⁹ See *Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination*, 78 FR 50385 (August 19, 2013), and accompanying IDM at Comment 8.

¹⁴⁰ See *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 50410 (October 3, 2001) and accompanying IDM at “VAT Exemptions Under the Investment Promotion Act”.

C. Programs Preliminarily Determined Not to Have Conferred a Measureable Benefit or Not to Have Conferred a Benefit During the POI

1. Energy Savings Program: Electricity Savings for Designated Period Program

Dongkuk reported that it utilized this program.¹⁴¹ To calculate its benefit, we divided the amount of the assistance received by Dongkuk under this program by its total sales. The calculation of the benefit resulted in a subsidy rate that is less than 0.005 percent. As such, this program does not have an impact on Union/Dongkuk's overall subsidy rate. Consistent with our past practice, we did not include this program in our net subsidy rate calculations for Union/Dongkuk.¹⁴²

2. Energy Savings Program: Electricity Savings through the Bidding Process Program

Dongkuk and Union reported that they utilized this program.¹⁴³ To calculate the benefit, we divided the amount of assistance received by each company by the respective company's total sales and then summed the two rates. The calculation of the benefit resulted in a subsidy rate that is less than 0.005 percent. As such, this program does not have an impact on Union/Dongkuk's overall subsidy rate. Consistent with our past practice, we did not include this program in our net subsidy rate calculations for Union/Dongkuk.¹⁴⁴

3. Energy Savings Program: Electricity Savings upon an Emergent Reduction Program

Dongkuk and Union reported that they utilized this program.¹⁴⁵ To calculate the benefit, we divided the amount of assistance received by each company by the respective company's total sales and then summed the two rates. The calculation of the benefit resulted in a subsidy rate that is less than 0.005 percent. As such, this program does not have an impact on Union/Dongkuk's overall subsidy rate. Consistent with our past practice, we did not include this program in our net subsidy rate calculations for Union/Dongkuk.¹⁴⁶

4. Energy Savings Program: Electricity Savings through General Management Program

Dongkuk and Union reported that they utilized this program.¹⁴⁷ To calculate the benefit, we divided the amount of assistance received by each company by the respective company's total sales and then summed the two rates. The calculation of the benefit resulted in a subsidy rate that is less than 0.005 percent.¹⁴⁸ As such, this program does not have an impact on Union/Dongkuk's overall subsidy rate. Consistent with our past practice, we did not include this program in our net subsidy rate

¹⁴¹ See Dongkuk IQR at 14.

¹⁴² See Dongkuk Preliminary Calculation Memorandum.

¹⁴³ See Dongkuk IQR at 14.

¹⁴⁴ See Dongkuk Preliminary Calculation Memorandum.

¹⁴⁵ See Dongkuk IQR at 14.

¹⁴⁶ See Dongkuk Preliminary Calculation Memorandum.

¹⁴⁷ See Dongkuk IQR at 14.

¹⁴⁸ See Dongkuk Preliminary Calculation Memorandum.

calculations for Union/Dongkuk.¹⁴⁹

5. Energy Savings Program: Management of the Electricity Load Factor Program

Dongbu reported that it utilized this program.¹⁵⁰ To calculate its benefit, we divided the amount of the assistance received by Dongbu by the company's total sales. The calculation of the benefit resulted in a rate that is less than 0.005 percent.¹⁵¹ As such, this program does not have an impact on Dongbu's overall subsidy rate. Consistent with our past practice, we did not include this program in our net subsidy rate calculations for Dongbu.

6. RSLTA Article 46

Although the Department did not initiate an investigation of this program, Union reported that it received exemptions from property taxes and local education taxes, pursuant to Article 46 of the RSLTA.¹⁵² However, the calculation of the benefit resulted in a rate that is less than 0.005 percent. As such, this program does not have an impact on Union/Dongkuk's overall subsidy rate.¹⁵³ Consistent with our past practice, we did not include this program in our net subsidy rate calculations for Union/Dongkuk.

7. RSLTA Article 84

Although the Department did not initiate an investigation of this program, Union reported that it received exemptions from property taxes and local education taxes, pursuant to Article 84 of the RSLTA.¹⁵⁴ However, the calculation of the benefits resulted in a rate that is less than 0.005 percent.¹⁵⁵ As such, this program does not have an impact on Union/Dongkuk's overall subsidy rate. Consistent with our past practice, we did not include this program in our net subsidy rate calculations for Union/Dongkuk.

8. R&D Grants under ITIPA

Dongkuk reported receiving benefits for two R&D projects under the Industrial Technology Innovation Promotion Act (ITIPA) during the POI and in prior years of the AUL.¹⁵⁶ We consider grants to be non-recurring benefits, in accordance with 19 CFR 351.524(c). For each year of the AUL period in which Dongkuk received financial assistance, we checked whether the amounts received exceeded 0.5 percent of the company's sales in that year in order to determine whether the benefits should be allocated over time or to the year of receipt. None of the grants reported over the AUL period met the prerequisite for allocation over time. Therefore, we expensed all grants to the year of receipt. Thus, to calculate the subsidy we summed all grants received in the POI and divided

¹⁴⁹ *Id.*

¹⁵⁰ See Dongbu's SQR at 5.

¹⁵¹ See Dongbu Preliminary Calculation Memorandum.

¹⁵² See Dongkuk IQR at 42 and Attachment RSLTA-7.

¹⁵³ See Dongkuk Preliminary Calculation Memorandum.

¹⁵⁴ See Dongkuk IQR at 42 and Attachment RSLTA-12.

¹⁵⁵ See Dongkuk Preliminary Calculation Memorandum.

¹⁵⁶ See Dongkuk IQR at 36 and Attachment I-2, pages 2-3.

the resulting benefit by the company's total sales during the POI, which resulted in a rate that is less than 0.005 percent.¹⁵⁷ As such, this program does not have an impact on Union/Dongkuk's overall subsidy rate. Consistent with our past practice, we did not include this program in our net subsidy rate calculations for Union/Dongkuk.

9. Various Grants Reported by Dongkuk

GOK Infrastructure Investment at Incheon North Harbor
Machinery & Equipment (KANIST R&D) Project

Dongkuk reported it received benefits from the above two programs during the AUL period, but prior to the POI. We found that the benefits received were less than 0.5 percent of its sales in the year in which the subsidies were received.¹⁵⁸ Therefore, in accordance with 19 CFR 351.524(b)(2), we expensed the benefits Dongkuk received pursuant to these programs to the year in which they received the benefit. As a result, Dongkuk did not receive a benefit pursuant to these grants that is attributable to the POI.¹⁵⁹

Grant for the Purchase of an Electric Vehicle

Dongkuk received a grant during the POI from Pohang City towards the purchase of an electric vehicle. However, the calculation of the benefit results in a rate that is less than 0.005 percent.¹⁶⁰ As such, this program does not have an impact on Union/Dongkuk's overall subsidy rate. Consistent with our past practice, we did not include this program in our net subsidy rate calculations for Union/Dongkuk.

D. Programs Preliminarily Determined To Be Not Used

1. K-SURE Short-Term Export Credit Insurance

Dongbu reported that it purchased export credit insurance from K-SURE during the POI; however, it did not make any insurance claims or receive payments on insurance claims with respect to exports of the subject merchandise.¹⁶¹ Therefore, pursuant to 19 CFR 351.525(b)(5), we preliminarily determine that Dongbu's use of this program during the POI was tied to non-subject merchandise. Dongkuk reported not using this program during the POI.

We also preliminarily determine that respondents did not apply for or receive countervailable benefits during the POI under the following programs:

Provision of Inputs for Less Than Adequate Remuneration

1. Power Business Law Subsidies

¹⁵⁷ See Dongkuk Preliminary Calculation Memorandum.

¹⁵⁸ *Id.*

¹⁵⁹ See Dongkuk Preliminary Calculation Memorandum.

¹⁶⁰ *Id.*

¹⁶¹ See Dongbu IQR at 35.

2. Provision of Liquefied Natural Gas (LNG) for LTAR

KEXIM Countervailable Subsidy Programs

3. Short-Term Export Credits
4. Export Factoring
5. Export Loan Guarantees
6. Trade Bill Rediscounting Program
7. Overseas Investment Credit Program

KDB and IBF Loans

8. Loans under the Industrial Base Fund

Korea Trade Insurance Corporation (K-SURE) – Export Insurance and Export Credit Guarantees

9. Export Credit Guarantees

Energy and Resource Subsidies

10. Long-Term Loans from the Korean Resources Corporation and the Korea National Oil Corporation
11. Special Accounts for Energy and Resources (SAER) Loans
12. Clean Coal Subsidies

Green Subsidies

13. GOK Subsidies for “Green Technology R&D” and its Commercialization
14. Support for SME “Green Partnerships”

15. Daewoo International Corporation Debt Work Out

Income Tax Programs

16. Research, Supply, or Workforce Development Investment Tax Deduction for “New Growth Engines” under RSTA Article 10(1)(1)
17. Research, Supply, or Workforce Development Expense Tax Deductions for “Core Technologies” under RSTA Article 10(1)(2)
18. Tax Reduction for Research and Human Resources Development under RSTA Article 10(1)(3)
19. Tax Credit for Investment in Facilities for Research and Manpower under RSTA Article 11
20. Tax Deduction for Investment in Environmental and Safety Facilities under RSTA Article 25(3)
21. Tax Program for Third-Party Logistics Operations under RSTA Article 104(14)

Subsidies to Companies Located in Certain Economic Zones

22. Tax Reductions and Exemptions in Free Economic Zones
23. Exemptions and Reductions of Lease Fees in Free Economic Zones
24. Grants and Financial Support in Free Economic Zones

Grants

- 25. Modal Shift Program
- 26. Sharing of Working Opportunities/Employment Creating Incentives

Purchases for More Than Adequate Remuneration (MTAR)

- 27. The GOK's Purchases of Electricity from Corrosion-Resistant Steel Producers for MTAR

X. DISCLOSURE AND PUBLIC COMMENT

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.¹⁶² Case briefs may be submitted to Enforcement and Compliance's AD and CVD Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs.¹⁶³

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁶⁴ This summary should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) The number of participants; and (3) A list of issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined. *See* 19 CFR 351.310(d). Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.¹⁶⁵ Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due dates established above.¹⁶⁶

¹⁶² *See* 19 CFR 351.224(b).

¹⁶³ *See* 19 CFR 351.309(d); *see also* 19 CFR 351.303 (for general filing requirements).

¹⁶⁴ *See* 19 CFR 351.309(c)(2) and (d)(2).

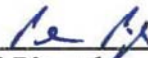
¹⁶⁵ *See* 19 CFR 351.303(b)(2)(i).

¹⁶⁶ *See* 19 CFR 351.303(b)(1).

XI. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

✓
Agree Disagree


Paul Piquado
Assistant Secretary
for Enforcement and Compliance

2 NOVEMBER 2015
Date