

## Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of the new shipper review, as provided by section 751(a)(2)(C) of the Act: 1) the cash deposit rate for Ege Celik (*i.e.*, for subject merchandise both manufactured and exported by Ege Celik) will be that established in the final results of this review, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; 2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; 3) if the exporter is not a firm covered in these reviews or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and 4) the cash deposit rate for all other manufacturers or exporters will continue to be 16.06 percent, the All-Others rate established in the LTFV investigation. These requirements, when imposed, shall remain in effect until further notice.

## Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper review is issued and published in accordance with sections 751(a)(2)(B)(iv) and 777(i)(1) of the Act, as well as 19 CFR 351.214(i).

Dated: September 4, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration (C-580-818)

#### Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.  
**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on corrosion-resistant carbon steel flat products from the Republic of Korea (Korea) for the period of review (POR) January 1, 2005, through December 31, 2005. For information on the net subsidy for each of the reviewed companies, see the "Preliminary Results of Review" section of this notice. Interested parties are invited to comment on these preliminary results. (See the "Public Comment" section of this notice).

**EFFECTIVE DATE:** September 10, 2007.

**FOR FURTHER INFORMATION CONTACT:** Robert Copyak or Gayle Longest, AD/CVD Operations, Office 3, Import Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2209 or (202) 482-3338, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 17, 1993, the Department published in the **Federal Register** the CVD order on corrosion-resistant carbon steel flat products from Korea. See *Countervailing Duty Orders and Amendments to Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Korea*, 58 FR 43752 (August 17, 1993). On August 1, 2006, the Department published a notice of opportunity to request an administrative review of this CVD order. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 43441 (August 1, 2006). On August 31, 2006, we received a timely request for review from Pohang Iron and Steel Co. Ltd. (POSCO) and Dongbu Steel Co., Ltd. (Dongbu). On September 29, 2006, the Department published a notice of initiation of the administrative review of the CVD order on corrosion-resistant carbon steel flat products from Korea covering the POR January 1, 2005, through December 31, 2005. See

*Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 57465 (September 29, 2006). On October 16, 2006, the Department sent its initial questionnaire to POSCO, Dongbu, and the Government of Korea (GOK). On December 21, 2006, the Department received questionnaire responses from POSCO, Pohang Steel Co., Ltd. (POCOS, a production affiliate of POSCO), POSCO Steel Service & Sales Co., Ltd. (POSTEEL, a trading company for POSCO),<sup>1</sup> Dongbu, and the GOK. On March 30, 2007, we issued supplemental questionnaires to POSCO and the GOK. On April 16, 2007, we received the responses to these supplemental questionnaires.

On May 9, 2007, the Department published in the **Federal Register** a notice of extension of the time period for issuing the preliminary results. See *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review*, 72 FR 26338 (May 9, 2007).

In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters for which a review was specifically requested. The companies subject to this review are POSCO (and its affiliates POCOS and POSTEEL) and Dongbu.

#### Affiliated Companies

In the present administrative review, record evidence indicates that POCOS is a majority-owned production affiliate of POSCO. Under 19 CFR 351.525(b)(6)(iii), if the firm that received a subsidy is a holding company, including a parent company with its own operations, the Department will attribute the subsidy to the consolidated sales of the holding company and its subsidiaries. Thus, we attributed subsidies received by POCOS to POSCO and its subsidiaries, net of intra-company sales. Dongbu reported that it is the only member of the Dongbu group in Korea that was involved with the sale of subject merchandise to the United States.

#### Scope of Order

Products covered by this order are certain corrosion-resistant carbon steel flat products from Korea. These products include flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-

<sup>1</sup> In these preliminary results, unless otherwise stated, we use POSCO to collectively refer to POSCO, POCOS, and POSTEEL.

based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness. The merchandise subject to this order is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTSUS) at subheadings: 7210.30.0000, 7210.31.0000, 7210.39.0000, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.60.0000, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.21.0000, 7212.29.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.9030, 7215.90.5000, 7217.12.1000, 7217.13.1000, 7217.19.1000, 7217.19.5000, 7217.20.1500, 7217.22.5000, 7217.23.5000, 7217.29.1000, 7217.29.5000, 7217.30.15.0000, 7217.32.5000, 7217.33.5000, 7217.39.1000, 7217.39.5000, 7217.90.1000 and 7217.90.5000. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise is dispositive.

#### Average Useful Life

Under 19 CFR 351.524(d)(2), we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned as listed in the Internal Revenue Service's (IRS) 1997 Class Life Asset Depreciation Range System, as updated by the Department of the Treasury. The presumption will apply unless a party claims and establishes that the IRS tables do not reasonably reflect the company-specific AUL or the country-wide AUL for the industry under examination and that the difference between the company-specific and/or country-wide AUL and the AUL from the IRS table is significant. According to the IRS Tables, the AUL of the steel industry is 15 years. No interested party challenged the 15-year AUL derived from the IRS tables. Thus, in this

review, we have allocated, where applicable, all of the non-recurring subsidies provided to the producers/exporters of subject merchandise over a 15-year AUL.

#### Subsidies Valuation Information

##### A. Benchmarks for Short-Term Financing

For those programs requiring the application of a won-denominated, short-term interest rate benchmark, in accordance with 19 CFR 351.505(a)(2)(iv), we used as our benchmark an annual average company-specific weighted-average interest rate for commercial won-denominated loans outstanding during the POR. Where no such benchmark instruments are available, we used national average lending rates for the POR, as reported in the International Monetary Fund's (IMF) *International Financial Statistics Yearbook*. This approach is in accordance with 19 CFR 351.505(a)(3)(ii) and the Department's practice. See, e.g., *Final Affirmative Countervailing Duty Determination: Structural Steel Beams From the Republic of Korea*, 65 FR 41051 (July 3, 2000) (*H Beams Investigation*), and the accompanying Issues and Decision Memorandum (*H Beams Decision Memorandum*), at "Benchmarks for Short-Term Financing."

##### B. Benchmark for Long-Term Loans Issued Through 2005

During the POR, POSCO and Dongbu had outstanding long-term won-denominated and foreign-currency denominated loans from government-owned banks and Korean commercial banks. Based on our findings on this issue in prior investigations and administrative reviews, we are using the following benchmarks to calculate the subsidies attributable to respondents' countervailable long-term loans obtained through 2005:

(1) For countervailable, foreign-currency denominated loans, pursuant to 19 CFR 351.505(a)(2), and consistent with our past practice, our preference is to use the company-specific, weighted-average foreign currency-denominated interest rates on the company's loans from foreign bank branches in Korea, foreign securities, and direct foreign loans outstanding during the POR. See, e.g., *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 64 FR 30636, 30640 (June 8, 1999). Where no such benchmark instruments are available, and consistent with 19 CFR 351.505(a)(3)(ii), as well as our practice, we relied on the national average lending rates as reported by the IMF's

*International Financial Statistics Yearbook*. See, e.g., *Final Results and Partial Rescission of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 69 FR 2113 (January 14, 2004), and the accompanying Issues and Decision Memorandum, at "Subsidies Valuation Information; B. Benchmarks for Long-Term Loans and Discount Rates."

(2) For countervailable, won-denominated, long-term loans, our practice is to use the company-specific corporate bond rate on the company's public and private bonds, as we determined that the GOK did not control the Korean domestic bond market after 1991 and that domestic bonds may serve as an appropriate benchmark interest rate. See, e.g., *Final Negative Countervailing Duty Determination: Stainless Steel Plate in Coils from the Republic of Korea*, 64 FR 15530, 15531 (March 31, 1999) (*Plate in Coils Investigation*); see also 19 CFR 351.505(a)(2)(ii). Where no such benchmark instruments are available, we used the national average of the yields on three-year corporate bonds, as reported by the Bank of Korea (BOK), consistent with 19 CFR 351.505(a)(3)(ii). We note that the use of the three-year corporate bond rate from the BOK follows the approach taken in the *Plate in Coils Investigation*, in which we determined that, absent company-specific interest rate information, the corporate bond rate is the best indicator of a market rate for won-denominated long-term loans in Korea. See *Plate in Coils Investigation*, 64 FR at 15531; see also 19 CFR 351.505(a)(3)(ii).

In accordance with 19 CFR 351.505(a)(2)(i), our benchmarks take into consideration the structure of the government-provided loans. For countervailable fixed-rate loans, pursuant to 19 CFR 351.505(a)(2)(iii), we used benchmark rates issued in the same year that the government loans were issued. For countervailable variable-rate loans outstanding during the POR, pursuant to 19 CFR 351.505(a)(5)(i), our preference is to use the interest rates of variable-rate lending instruments issued during the year in which the government loans were issued. Where such benchmark instruments are unavailable, we used interest rates from debt instruments issued during the POR as our benchmark, as such rates better reflect a variable interest rate that would be in effect during the POR. This approach is in accordance with the Department's practice. See, e.g., *Final Results and Partial Rescission of Countervailing Duty Administrative Review: Stainless*

*Steel Sheet and Strip From the Republic of Korea*, 68 FR 13267 (March 19, 2003), and accompanying Issues and Decision Memorandum, at Comment 8; *see also* 19 CFR 351.505(a)(5)(ii).

#### C. Benchmark Discount Rates

Certain programs examined in this administrative review require the allocation of won-denominated benefits over time. Thus, we have employed the allocation methodology described under 19 CFR 351.524(d). Pursuant to 19 CFR 351.524(d)(3)(i), we based our discount rate on data for the year in which the government agreed to provide the subsidy. Under 19 CFR 351.524(d)(3)(i)(A), our preference is to use the cost of long-term, fixed-rate loans of the firm in question.<sup>2</sup> Thus, where available, we used company-specific corporate bond rates on public and private bonds. *See, e.g., Plate in Coils Investigation*, 64 FR at 15531. Where no such benchmark instruments are available, pursuant to 19 CFR 351.524(d)(3)(i)(B), we used the national average of the yields on three-year corporate bonds, as reported by the BOK, because we have determined that the GOK did not control the Korean domestic bond market after 1991.

#### I. Program Preliminarily Determined to Confer Subsidies

##### A. The GOK's Direction of Credit

##### 1. Loans Received Through 2005

In the most recently completed CVD proceeding involving Korea, the Department reaffirmed earlier determinations that the GOK controlled and directed lending to Korean steel producers through 2005. *See Final Results of Countervailing Duty Administrative Review: Certain Cut-to-Length Carbon-Quality Steel Plate from Republic of Korea*, 72 FR 38565 (July 13, 2007) (*2005 CTL Plate Final Results*), and accompanying Issues and Decision Memorandum, at "GOK's Direction of Credit" (*2005 CTL Plate Decision Memorandum*). In addition, in that review, the Department noted that neither the respondent nor the GOK provided any new information that would warrant a change in the Department's determination. Finding that the GOK did not act to the best of its ability, the Department employed an adverse inference and determined that the GOK continued its direction-of-credit policies with respect to the

Korean steel industry for the period 2002 through 2005. *Id.*

During the POR, POSCO and Dongbu had outstanding loans that were received prior to and/or during the 2005 period. As in the prior proceedings, we asked the GOK for information pertaining to the GOK's direction-of-credit policies through 2005. The GOK did not provide any new information that would warrant a departure from these prior findings, stating instead that: "The Department has consistently found that long-term loans received by the steel industry were the result of GOK direction, despite the GOK's repeated objections and demonstrations to the contrary. While the GOK strongly disagrees with the Department's position, the legal costs to further contest this issue in the current review overshadow any possible benefit to the participating Korean companies."

See the GOK's Questionnaire Response, at 8 (December 21, 2006). Because the GOK withheld the requested information on its lending policies, the Department does not have the necessary information on the record to determine whether the GOK has continued its direction-of-credit policies with respect to the Korean steel industry through 2005; therefore, the Department must base its determination on facts otherwise available. *See* Section 776(a)(2)(A) of the Tariff Act of 1930, as amended (the Act).

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (AFA) information derived from the petition, the final determination in the investigation, a previous administrative review, or other information placed on the record. For the reasons discussed below, we determine that, in accordance with sections 776(a)(2) and 776(b) of the Act, the use of AFA is appropriate for the final results for the determination of direction of credit for loans received through 2005.

In this case, the GOK refused to supply requested information that was in its possession, even though the GOK had provided similar information in prior proceedings. *See, e.g., Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea*, 64 FR 73176, 73178-180 (December 29, 1999) (*CTL Plate Investigation*). Therefore, consistent

with section 776(a)(2)(A) and (B) of the Act, we find that the GOK did not act to the best of its ability in this case and, therefore, we are employing an adverse inference in selecting from among the facts otherwise available. As AFA, we find that the GOK's direction-of-credit policies for the steel industry continued through 2005. Accordingly, the GOK's direction-of-credit policies with respect to the Korean steel industry provide a financial contribution in the form of the provision of loans pursuant to section 771(5)(D)(i) of the Act, confer a benefit in the amount of the difference between the amount that firm paid for the countervailable loan and the amount the firm would pay on a comparable commercial loan within the meaning of section 771(5)(E)(ii) of the Act, and are specific pursuant to section 771(5A)(D)(iii) of the Act because they are limited to the steel industry. Therefore, we find that lending to Korean steel producers from domestic banks and government-owned banks through 2005 is countervailable. Thus, any loans received by Korean steel producers through 2005 from domestic banks and government-owned banks that were outstanding during the POR are countervailable, to the extent that the interest amount paid on the loan is less than what would have been paid on a comparable commercial loan. The Department's decision to rely on adverse inferences when lacking a response from the GOK regarding the direction-of-credit issue, as it applies to the Korean steel industry, is also in accordance with its practice. *See 2005 CTL Plate Decision Memorandum* at "GOK's Direction of Credit."

#### 2. Calculation of the Benefit and Net Subsidy Rate Under the Direction of Credit Program

In accordance with 19 CFR 351.505(c)(2) and (4), we calculated the benefit for each fixed- and variable-rate loan received from GOK-owned or -controlled banks to be the difference between the actual amount of interest paid on the directed loan during the POR and the amount of interest that would have been paid during the POR at the benchmark interest rate. We conducted our benefit calculations using the benchmark interest rates described in the "Subsidies Valuation Information" section above. For foreign currency-denominated loans, we converted the benefits into Korean won using exchange rates obtained from the BOK. We then summed the benefits from each company's long-term fixed-rate and variable-rate won-denominated loans.

To calculate the net subsidy rate, we divided the companies' total benefits by

<sup>2</sup> Pursuant to 19 CFR 351.505(a)(2)(ii), a "commercial loan" is defined as a loan taken out by the firm from a commercial lending institution or a debt instrument issued by the firm in a commercial market. Because we have determined that the GOK controlled and directed lending, we are unable to use the cost of loans for discount rate purposes. However, as explained above, we determined that the GOK did not control the Korean domestic bond market after 1991.

their respective total f.o.b. sales values during the POR, as this program is not tied to exports or a particular product. In calculating the net subsidy rate for POSCO, we removed from the denominator sales made between affiliated parties.<sup>3</sup> On this basis, we preliminarily determine the net subsidy rate under the direction of credit program to be less than 0.005 percent *ad valorem* for POSCO and 0.05 percent *ad valorem* for Dongbu.

#### B. Asset Revaluation Under Article 56(2) of the Tax Reduction and Exemption Control Act (TERCL)

Under Article 56(2) of the TERCL, the GOK permitted companies that made an initial public offering between January 1, 1987, and December 31, 1990, to revalue their assets at a rate higher than the 25 percent required of most other companies under the Asset Revaluation Act. The Department has previously found this program to be countervailable. For example, in the *CTL Plate Investigation*, the Department determined that this program was *de facto* specific under section 771(5A)(D)(iii) of the Act because the actual recipients of the subsidy were limited in number and the basic metal industry was a dominant user of this program. See *CTL Plate Investigation*, 64 FR at 73182–183. We also determined that a financial contribution was provided in the form of tax revenue foregone pursuant to section 771(5)(D)(ii) of the Act. *Id.* The Department further determined that a benefit was conferred within the meaning of section 771(5)(E) of the Act on those companies that were able to revalue their assets under TERCL Article 56(2) because the revaluation resulted in participants paying fewer taxes than they would otherwise pay absent the program. *Id.* No new information, evidence of changed circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailability of this program.

The benefit from this program is the difference that the revaluation of depreciable assets has on a company's tax liability each year. Evidence on the record indicates that, in 1989, POSCO made an asset revaluation that increased its depreciation expense. Dongbu reported that it did not use this program during the POR. To calculate the benefit to POSCO, we took the additional depreciation listed in the tax return filed during the POR, which resulted

from the company's asset revaluation, and multiplied that amount by the tax rate applicable to that tax return. We then divided the resulting benefit by POSCO's total f.o.b. sales. On this basis, we preliminarily determine the net countervailable subsidy to be 0.02 percent *ad valorem* for POSCO. This program was not used by Dongbu.

#### C. Research and Development (R&D) Grants Under the Industrial Development Act (IDA)

The GOK, through the Ministry of Commerce, Industry, and Energy (MOCIE), provides R&D grants to support numerous projects pursuant to the IDA, including technology for core materials, components, engineering systems, and resource technology. The IDA is designed to foster the development of efficient technology for industrial development. To participate in this program a company may: (1) perform its own R&D project, (2) participate through the Korea New Iron and Steel Technology Research Association (KNISTRA), which is an association of steel companies established for the development of new iron and steel technology, and/or (3) participate in another company's R&D project and share R&D costs, along with funds received from the GOK. To be eligible to participate in this program, the applicant must meet the qualifications set forth in the basic plan and must perform R&D as set forth under the Notice of Industrial Basic Technology Development. If the R&D project is not successful, the company must repay the full amount.

In the *H Beams Investigation*, the Department determined that through KNISTRA the Korean steel industry receives funding specific to the steel industry. Therefore, given the nature of KNISTRA, the Department found projects under KNISTRA to be specific. See *Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Structural Steel Beams From the Republic of Korea*, 64 FR 69731, 69740 (December 14, 1999) (unchanged in final results), *H Beams Decision Memorandum*, at "R&D Grants Under The Korea New Iron & Steel Technology Research Association (KNISTRA)." Further, we found that the grants constituted a financial contribution under section 771(5)(D)(i) of the Act in the form of a grant, and bestowed a benefit under section 771(5)(E) of the Act in the amount of the grant. *Id.* No new factual information or evidence of changed circumstances has been provided to the Department with respect to this program. Therefore, we

preliminarily determine that this program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act and constitutes a financial contribution and confers a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively.

Dongbu reported that it did not use the program during the POR. POSCO reported receiving grants through KNISTRA during the POR; however, it claims that the research grants it received under the program are tied to non-subject merchandise. Upon review of the information submitted by the GOK and POSCO, we preliminarily determine that certain grants are tied to non-subject merchandise, and thus, we did not include these grants in our benefit calculations. See the GOK's December 21, 2006, Questionnaire Response, at Exhibit G–6. However, POSCO also reported receiving certain other grants related to a production process that can be used for an input into the production of subject merchandise. See POSCO's December 21, 2006, Questionnaire Response, at Exhibit 6. See *Preliminary Results of Countervailing Duty Administrative Review: Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 FR 53413, 53417 (September 11, 2006) (*Preliminary Results of CORE from Korea (2004)*) (unchanged final results, 71 FR 119 (January 3, 2007)). Under 19 CFR 351.525(b)(5), if a subsidy is tied to the production or sale of a particular product, the Department will attribute the subsidy only to that product. But, under sub-paragraph (ii), if a subsidy is tied to the production of an input product, then the Department will attribute the subsidy to both the input and downstream products produced by a corporation, where the input is primarily dedicated to downstream products. Accordingly, we have attributed the grant related to a production process that can be used as an input into the production of subject merchandise to POSCO's total sales.

To determine the benefit from the grants that POSCO received through KNISTRA, we calculated the GOK's contribution for each R&D project. Next, in accordance with 19 CFR 351.524(b)(2), we determined whether to allocate the non-recurring benefit from the grants over POSCO's AUL by dividing the approved amount by POSCO's total sales in the year of approval. Because the approved amounts were less than 0.5 percent of POSCO's total sales in the year of receipt, we expensed the grants to the year of receipt. Next, to calculate the net subsidy rate, we divided the portion of the benefit allocated to the POR by

<sup>3</sup> For POSCO, we also removed intra-company sales from the denominators of the net subsidy rate calculations of the other programs found countervailable in these preliminary results. This step was not necessary for Dongbu.

POSCO's total f.o.b. sales during the POR. On this basis, we preliminarily determine POSCO's net subsidy rate under this program to be 0.01 percent *ad valorem*.

#### D. Exemption of VAT on Imports of Anthracite Coal

Under Article 106 of Restriction of Special Taxation Act (RSTA), imports of anthracite coal are exempt from the value added tax (VAT). In the *Cold-Rolled Investigation*, we determined that the program is de jure specific to the steel industry under section 771(5A)(D)(i) of the Act, as the items allowed to be imported without paying VAT are limited to the production of steel products. See *Final Affirmative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products From the Republic of Korea*, 67 FR 62102 (October 3, 2002) (*Cold-Rolled Investigation*), and accompanying Issues and Decision Memorandum (*Cold-Rolled Decision Memorandum*), at "Exemption of VAT on Imports of Anthracite Coal." We also determined that the VAT exemptions under the program constitute a financial contribution under section 771(5)(D)(ii) of the Act, as the GOK is not collecting revenue otherwise due, and that the exemptions confer a benefit under section 771(5)(E) of the Act equal to the amount of the VAT that would have otherwise been paid if not for the exemption. No new information, evidence of changed circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailability of this program. Therefore, we preliminarily determine that this program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because it is limited to the steel industry, constitutes a financial contribution in the form of foregone revenue under section 771(5)(D)(ii) of the Act, and confers a benefit in the amount of the revenue foregone within the meaning of 771(5)(E) of the Act.

Dongbu reported that it did not use the program during the POR. POSCO imported anthracite coal during the POR and, therefore, received a benefit in the amount of the VAT that it would have otherwise paid if not for the exemption. To determine POSCO's benefit from the VAT exemption on these imports, we calculated the amount of VAT that would have been due absent the program on the total value of anthracite coal POSCO imported during the POR. We then divided the amount of this tax benefit by POSCO's total f.o.b. sales. Based on this methodology, we preliminarily determine that POSCO

received a countervailable subsidy of 0.05 percent *ad valorem*.

#### E. GOK Infrastructure Investment at Kwangyang Bay Through 1991

In *Steel Products from Korea*, the Department investigated the GOK's infrastructure investments at Kwangyang Bay over the period 1983–1991. We determined that the GOK's provision of infrastructure at Kwangyang Bay was countervailable because POSCO was the predominant user of the GOK's investments. See *Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstance Determinations: Certain Steel Products from Korea*, 58 FR 37338, 37346 (July 9, 1993) (*Steel Products from Korea*). Dongbu did not use this program. Consistent with section 771(5A)(D)(iii) of the Act, the Department has held that a countervailable subsidy exists when benefits under a program are provided, or are required to be provided, in law or in fact, to a specific enterprise or industry or group of enterprises or industries. See, e.g., *Steel Products from Korea*, 58 FR at 37346; and *Preliminary Results of CORE from Korea (2004)*, 71 FR 53418. No new factual information or evidence of changed circumstances has been provided to the Department with respect to the GOK's infrastructure investments at Kwangyang Bay over the period 1983–1991. Therefore, we preliminarily determine the infrastructure investments the GOK provided to POSCO are *de facto* specific within the meaning of section 771(5A)(D)(iii)(II) of the Act. Further, we preliminarily determine that the infrastructure investments constitute a financial contribution in the form of a grant, pursuant to section 771(5)(D)(i) of the Act, and confer a benefit in the amount of the grant within the meaning of section 771(5)(E) of the Act.

To determine the benefit from the GOK's investments to POSCO during the POR, we utilized the approach adopted in prior proceedings. See, e.g., *CTL Plate Investigation*, 64 FR at 73180. In measuring the benefit from this program, we treated the GOK's costs of constructing the infrastructure at Kwangyang Bay as untied, non-recurring grants in each year in which the costs were incurred. To calculate the benefit conferred during the POR, we applied the Department's standard grant methodology and allocated the GOK's infrastructure investments over a 15-year allocation period. See the "Average Useful Life" section, above. Using the 15-year allocation period, POSCO is still receiving benefits under this program from the GOK investments made during the year 1991. To calculate the benefit

from these grants, we used as our discount rate the rate describe above in the "Subsidies Valuation Information" section. We then divided this total benefit attributable to the POR by POSCO's total f.o.b. sales for the POR. On this basis, we preliminarily determine POSCO's net countervailable subsidy rate to be 0.01 percent *ad valorem* for the POR.

#### F. Other Subsidies Related to Operations at Asan Bay: Provision of Land and Exemption of Port Fees Under Harbor Act

##### 1. Provision of Land

As explained in the *Cold-Rolled Investigation*, the GOK's overall development plan is published every 10 years and describes the nationwide land development goals and plans for the balanced development of the country. Under these plans, the Ministry of Construction and Transportation (MOCAT) prepares and updates its Asan Bay Area Broad Development Plan. See *Cold-Rolled Decision Memorandum*, at "Provision of Land at Asan Bay." The Korea Land Development Corporation (Koland) is a government investment corporation that is responsible for purchasing, developing, and selling land in the industrial sites. *Id.*

In the *Cold-Rolled Investigation*, we verified that the GOK, in setting the price per square meter for land at the Kodai industrial estate, removed the 10 percent profit component from the price charged to Dongbu. *Id.* In the *Cold-Rolled Investigation*, we further explained that companies purchasing land at Asan Bay must make payments on the purchase and development of the land before the final settlement. However, in the case of Dongbu, we found that the GOK provided an adjustment to Dongbu's final payment to account for "interest earned" by the company for the pre-payments. *Id.* POSCO reported that it did not use this program.

In the *Cold-Rolled Investigation*, we determined that the price discount and the adjustment of Dongbu's final payment to account for "interest earned" by the company on its pre-payments were countervailable subsidies. Specifically, the Department determined that they were specific under section 771(5A)(D)(iii)(I) of the Act, as they were limited to Dongbu. *Id.* Further, the Department found the price discount and the price adjustment for "interest earned" constituted financial contributions in the form of grants under section 771(5)(D)(i) of the Act and conferred benefits in the amount of grants within the meaning of section 771(5)(E) of the Act. *Id.* No new information, evidence of changed

circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailability of this program. Therefore, we preliminarily determine that this program is de facto specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because it is limited to Dongbu, constitutes a financial contribution in the form of grants under sections 771(5)(D)(i), and confers a benefit in the amount of the price discount and the price adjustment within the meaning of 771(5)(E) of the Act.

Consistent with the *Cold-Rolled Investigation*, we have treated the land price discount and the interest earned refund as non-recurring subsidies. *Id.* In accordance with 19 CFR 351.524(b)(2), because the grant amounts were more than 0.5 percent of the company's total sales in the year of receipt, we applied the Department's standard grant methodology, as described under 19 CFR 351.524(d)(1), and allocated the subsidies over a 15-year allocation period. See the "Average Useful Life" section, above. To calculate the benefit from these grants, we used as our discount rate the rates describe above in the "Subsidies Valuation Information" section. We then summed the benefits received by Dongbu during the POR. We calculated the net subsidy rate by dividing the total benefit attributable to the POR by Dongbu's total f.o.b. sales for the POR. On this basis, we determine a net countervailable subsidy rate for Dongbu of 0.19 percent *ad valorem* for the POR.

## 2. Exemption of Port Fees Under Harbor Act

Under the Harbor Act, companies are allowed to construct infrastructure facilities at Korean ports; however, these facilities must be deeded back to the government. Because the ownership of these facilities reverts to the government, the government compensates private parties for the construction of these infrastructure facilities. Because a company must transfer to the government its infrastructure investment, under the Harbor Act, the GOK grants the company free usage of the facility and the right to collect fees from other users of the facility for a limited period of time. Once a company has recovered its cost of constructing the infrastructure, the company must pay the same usage fees as other users of the infrastructure.

In the *Cold-Rolled Investigation*, the Department found that Dongbu received free use of harbor facilities at Asan Bay based upon both its construction of a port facility as well as a road that the company built from its plant to its port.

See *Cold-Rolled Decision Memorandum*, at "Dongbu's Excessive Exemptions under the Harbor Act." The Department also determined that Dongbu received an exemption of harbor fees for a period of almost 70 years under this program. See *id.* In the *Cold-Rolled Investigation*, the Department found the exemption from the fees to be a countervailable subsidy. No new information of changed circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailability of this program. Thus, we preliminarily determine that the program is countervailable and is specific under section 771(5A)(D)(iii)(I) of the Act because the excessive exemption period of 70 years is limited to Dongbu. Moreover, we preliminarily determine that the GOK is foregoing revenue that it would otherwise collect by allowing Dongbu to be exempt from port charges for up to 70 years and, thus, the program constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. Further, we preliminarily determine that the exemptions confer a benefit under section 771(5)(E) of the Act.

In the *Cold-Rolled Investigation*, the Department treated the program as a recurring subsidy and determined that the benefit is equal to the average yearly amount of harbor fee exemptions provided to Dongbu. *Id.* For purposes of these preliminary results, we have employed the same benefit calculation. To calculate the net subsidy rate, we divided the average yearly amount of exemptions by Dongbu's total f.o.b. sales for the POR. On this basis, we preliminarily determine that Dongbu's net subsidy rate under this program is 0.02 percent *ad valorem*.

G. Short-Term Export Financing  
The Korean Export Import Bank (KEXIM) supplies two types of short-term loans for exporting companies, short-term trade financing and comprehensive export financing. KEXIM provides short-term loans to Korean exporters who manufacture export goods under export contracts. The loans are provided up to the amount of the bill of exchange or contracted amount less any amount already received. For comprehensive export financing loans, KEXIM supplies short-term loans to any small or medium-sized company, or any large company that is not included in the five largest conglomerates based on their comprehensive export performance. To obtain the loans, companies must report their export performance periodically to KEXIM for review. Comprehensive export financing loans cover from 50 to

90 percent of the company's export performance; however, the maximum loan amount is restricted to 30 billion won.

In *Steel Products from Korea*, the Department determined that the GOK's short-term export financing program was countervailable. See *Steel Products from Korea*, 58 FR at 37350; see also, *Cold-Rolled Decision Memorandum*, at "Short-Term Export Financing." No new information, evidence of changed circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailability of this program. Therefore, we continue to find this program countervailable. Specifically, we preliminarily determine that the program is specific, pursuant to section 771(5A)(B) of the Act, because receipt of the financing is contingent upon exporting. In addition, we preliminarily determine that the export financing constitutes a financial contribution in the form of a loan within the meaning of section 771(D)(i) of the Act and confers a benefit within the meaning of section 771(E)(ii) of the Act. POCOS, POSCO's affiliate, and Dongbu reported using short-term export financing during the POR.

Pursuant to 19 CFR 351.505(a)(1), to calculate the benefit under this program, we compared the amount of interest paid under the program to the amount of interest that would have been paid on a comparable commercial loan. As our benchmark, we used the short-term interest rates discussed above in the "Subsidies Valuation Information" section. To calculate the net subsidy rate, we divided the benefit by the f.o.b. value of the respective company's total exports. On this basis, we determine the net subsidy rate for POSCO and Dongbu to be 0.01 percent *ad valorem*.

## II. Program Preliminarily Determined Not to Confer a Benefit During the POR

A. Reserve for Research and Manpower Development Fund Under RSTA Article 9 (Formerly Article 8 of TERCL)

On December 28, 1998, the TERCL was replaced by the Tax Reduction and Exemption Control Act (RSTA). Pursuant to this change in law, TERCL Article 8 is now identified as RSTA Article 9. Apart from the name change, the operation of RSTA Article 9 is the same as the previous TERCL Article 8 and its Enforcement Decree.

This program allows a company operating in manufacturing or mining, or in a business prescribed by the Presidential Decree, to appropriate reserve funds to cover expenses related to the development or innovation of technology. These reserve funds are



included in the company's losses and reduce the amount of taxes paid by the company. Under this program, capital goods companies and capital intensive companies can establish a reserve of five percent of total revenue, while companies in all other industries are only allowed to establish a three-percent reserve.

In a prior segment of this proceeding, we determined that this program is specific under section 771(5A)(D) of the Act because the capital goods industry is allowed to claim a larger tax reserve under this program than all other manufacturers. *See Preliminary Results of CORE from Korea (2004)*, 71 FR 53419. We also determined that this program provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act in the form of revenue forgone and that it provides benefit under section 771(5)(E) of the Act to the extent that companies in the capital goods industry, which includes steel manufacturers, pay less in taxes than they would absent the program. *Id.* In the *Preliminary Results of CORE from Korea (2004)*, we continued to find the program countervailable, but found that the companies under investigation only contributed to the reserve at the lower three-percent rate. Therefore, we found no countervailable benefit because the companies contributed at the lower rate, which was available to any Korean company. *Id.* No new information, or evidence of changed circumstances, was presented in this review to warrant reconsideration of the approaches adopted in the *Preliminary Results of CORE from Korea (2004)*.

In this administrative review, POSCO and POCOS each reported contributing to the reserve at the three-percent rate during the POR. We continue to find this program to be potentially countervailable. However, as each company contributed to the reserve at the lower three-percent rate, and in light of the Department's approach in the *Preliminary Results of CORE from Korea (2004)*, we preliminarily determine that no countervailable benefits were conferred under this program during the POR. Dongbu reported that it did not use this program during the POR.

### III. Programs Preliminarily Determined To Be Not Used

A. Reserve for Investment (Special Cases of Tax for Balanced Development Among Areas Under TERCL Articles 41–45)

B. Electricity Discounts Under the Requested Loan Adjustment (RLA) Program

C. Electricity Discounts Under the Emergency Load Reductions (ELR) Program

D. Export Industry Facility Loans (EIFL) and Specialty Facility Loans

E. Reserve for Overseas Market

Development Under TERCL Article 17

F. Equipment Investment to Promote Worker's Welfare Under TERCL Article 88

G. Emergency Load Reduction Program

H. Local Tax Exemption on Land Outside of a Metropolitan Area

I. Excessive Duty Drawback

J. Private Capital Inducement Act (PCIA)

K. Social Indirect Capital Investment Reserve Funds (Art. 28)

L. Energy-Savings Facilities Investment Reserve Funds (Art. 29)

M. Scrap Reserve Fund

N. Special Depreciation of Assets on Foreign Exchange Earnings

O. Export Insurance Rates Provided by the Korean Export Insurance Corporation

P. Loans from the National Agricultural Cooperation Federation

Q. Tax Incentives for Highly Advanced Technology Businesses Under the Foreign Investment and Foreign Capital Inducement Act

### Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for each of the producer/exporters subject to this administrative review. For the period January 1, 2005, through December 31, 2005, we preliminarily determine the net subsidy rate for POSCO to be 0.10 percent *ad valorem* and for Dongbu to be 0.27 percent *ad valorem*, both of which are *de minimis*. *See* 19 CFR 351.106(c)(1).

The Department intends to issue assessment instructions to U.S. Customs and Border Protection ("CBP") 15 days after the date of publication of the final results of this review. If the final results remain the same as these preliminary results, the Department will instruct CBP to liquidate without regard to countervailing duties all shipments of subject merchandise produced by POSCO and Dongbu, entered, or withdrawn from warehouse, for consumption from January 1, 2005, through December 31, 2005. The Department will also instruct CBP not to collect cash deposits of estimated countervailing duties on shipments of the subject merchandise produced by POSCO and Dongbu, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

We will instruct CBP to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to companies covered by this order, but not examined in this review, are those established in the most recently completed administrative proceeding for each company. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested.

### Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless otherwise indicated by the Department, case briefs must be submitted within 30 days after the publication of these preliminary results. *See* 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, which are limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs, unless otherwise specified by the Department. *See* 19 CFR 351.309(d)(1). Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issue; and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department copies of the public version on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310(c), within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of

issues raised in any case or rebuttal brief or at a hearing.

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: August 31, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

C-580-851

#### **Dynamic Random Access Memory Semiconductors from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce is conducting an administrative review of the countervailing duty order on dynamic random access memory semiconductors from the Republic of Korea for the period January 1, 2005, through December 31, 2005. We preliminarily find that Hynix Semiconductor, Inc. received countervailable subsidies during the period of review. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection ("CBP") to assess countervailing duties as detailed in the "Preliminary Results of Review" section of this notice. Interested parties are invited to comment on these preliminary results. See the "Public Comment" section of this notice.

**EFFECTIVE DATE:** September 10, 2007.

#### **FOR FURTHER INFORMATION CONTACT:**

David Neubacher or Shane Subler, Office of Antidumping/Countervailing Duty Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 3069, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5823 and (202) 482-0189, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On August 11, 2003, the Department of Commerce ("the Department") published a countervailing duty order on dynamic random access memory semiconductors ("DRAMS") from the

Republic of Korea ("ROK"). See *Notice of Countervailing Duty Order: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 47546 (August 11, 2003) ("CVD Order"). On August 1, 2006, the Department published a notice of "Opportunity to Request Administrative Review" for this countervailing duty order. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 71 FR 43441 (August 1, 2006). On August 30, 2006, we received a request for review from the petitioner, Micron Technology, Inc. ("Micron"). On August 31, 2006, we received a request for review from Hynix Semiconductor, Inc. ("Hynix"). In accordance with 19 CFR 351.221(c)(1)(i) (2004), we published a notice of initiation of the review on September 29, 2006. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 57465 (September 29, 2006) ("Initiation Notice").

On October 18, 2006, we issued countervailing duty questionnaires to the Government of the Republic of Korea ("GOK") and Hynix. We received responses to these questionnaires on November 21, 2006. On April 24, 2007, we issued supplemental questionnaires to the GOK and Hynix. We received responses to these supplemental questionnaires on May 15, 2007. We issued additional supplemental questionnaires to the GOK and Hynix on July 2, 2007, and received responses on July 16, 2007.

We received new subsidy allegations from Micron on December 11, 2006.<sup>1</sup> On March 28, 2007, we initiated an investigation of one of the two new subsidies that Micron alleged in this administrative review. In addition, we stated our intention to examine the timing of the benefit of a previously countervailed debt-to-equity swap ("DES") for the preliminary results. See *Third Countervailing Duty Administrative Review: Dynamic Random Access Memory Semiconductors from Korea: New Subsidy Allegations Memorandum* (March 28, 2007) ("New Subsidy Allegations—DOC Memorandum"), available in the Central Records Unit ("CRU"), Room B-099 of the main Department building.

On April 19, 2007, we published a postponement of the preliminary results

in this review until August 31, 2007. See *Dynamic Random Access Memory Semiconductors from the Republic of Korea: Extension of Time Limit for Preliminary Results of the Countervailing Duty Review*, 72 FR 19694 (April 19, 2007).

#### **Scope of the Order**

The products covered by this order are DRAMS from the ROK, whether assembled or unassembled. Assembled DRAMS include all package types. Unassembled DRAMS include processed wafers, uncut die, and cut die. Processed wafers fabricated in the ROK, but assembled into finished semiconductors outside the ROK are also included in the scope. Processed wafers fabricated outside the ROK and assembled into finished semiconductors in the ROK are not included in the scope.

The scope of this order additionally includes memory modules containing DRAMS from the ROK. A memory module is a collection of DRAMS, the sole function of which is memory. Memory modules include single in-line processing modules, single in-line memory modules, dual in-line memory modules, small outline dual in-line memory modules, Rambus in-line memory modules, and memory cards or other collections of DRAMS, whether unmounted or mounted on a circuit board. Modules that contain other parts that are needed to support the function of memory are covered. Only those modules that contain additional items which alter the function of the module to something other than memory, such as video graphics adapter boards and cards, are not included in the scope. This order also covers future DRAMS module types.

The scope of this order additionally includes, but is not limited to, video random access memory and synchronous graphics random access memory, as well as various types of DRAMS, including fast page-mode, extended data-out, burst extended data-out, synchronous dynamic RAM, Rambus DRAM, and Double Data Rate DRAM. The scope also includes any future density, packaging, or assembling of DRAMS. Also included in the scope of this order are removable memory modules placed on motherboards, with or without a central processing unit, unless the importer of the motherboards certifies with CBP that neither it, nor a party related to it or under contract to it, will remove the modules from the motherboards after importation. The scope of this order does not include DRAMS or memory modules that are re-imported for repair or replacement.

<sup>1</sup> See submission from Micron to the Department, Re: Dynamic Random Access Memory Semiconductors From South Korea/Petitioner's New Subsidies Allegation And New Issues Presented (December 11, 2006) ("New Subsidy Allegations").