This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: November 9, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–835]

Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea

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

EFFECTIVE DATE: November 17, 1998.

FOR FURTHER INFORMATION CONTACT: Eva Temkin or Christopher Cassel, Office of CVD/AD Enforcement VI, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to certain producers and exporters of stainless steel sheet and strip in coils from the Republic of Korea. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section of this notice.

Petitioners

The petition in this investigation was filed by Allegheny Ludlum Corporation, Armco, Inc., J&L Specialty Steel, Inc., Washington Steel Division of Bethlehem Steel Corporation, United Steelworkers of America, AFL–CIO/CLC, Butler Armco Independent Union, and Zanesville Armco Independent Organization, Inc. (collectively referred to hereinafter as the ''petitioners'').

Case History

Since the publication of the notice of initiation in the **Federal Register** (*see Initiation of Countervailing Duty Investigations: Stainless Steel Sheet and Strip in Coils from France, Italy, and the Republic of Korea*, 63 FR 37539 (July 13, 1998) (*Initiation Notice*)), the following events have occurred. On July 17, 1998, we issued countervailing duty questionnaires to the Government of Korea (GOK), and the producers/exporters of the subject merchandise. On August 6, 1998, we postponed the preliminary determination of this investigation until no later than November 9, 1998. (*see Notice of Postponement of Time Limit for Countervailing Duty Investigations: Stainless Steel Sheet and Strip in Coils from France, Italy, and the Republic of Korea*, 63 FR 43140 (August 12, 1998)).

We received responses to our initial questionnaires from the GOK and three of the five producers of the subject merchandise, Pohang Iron & Steel Company, Ltd. (POSCO), Inchon Iron & Steel Co., Ltd. (Inchon), and Dai Yang Metal Co., Ltd. (Dai Yang), on September 10, 1998. Also on September 10, 1998, we received responses from seven trading companies that are involved in exporting the subject merchandise to the United States: POSCO Steel Service & Sales Company, Ltd. (POSTEEL), Hyosung Corporation (Hyosung), Samsun Corporation (Samsun), Samsung Corporation (Samsung), Hyundai Corporation (Hyundai), Daewoo Corporation (Daewoo), and Sunkyong Ltd. (Sunkyong). On October 5, 1998, we issued supplemental questionnaires to all of the responding parties. We received their supplemental responses on October 21, 1998.

Scope of Investigation

For purposes of these investigations, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Excluded from the scope of this petition are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (i.e., flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (i.e., cold-rolled sections, rectangular in shape, of a width of not more than 9.5 mm, and a thickness of not more than 6.35 mm), and (5) razor blade steel. Razor blade steel is a flat rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. See Chapter 72 of the HTSUS, ''Additional U.S. Note'' 1(d).

The Department has determined that certain specialty stainless steel products are also excluded from the scope of these investigations. These excluded products are described below: Flapper valve steel is defined as stainless steel strip in coils with a chemical composition similar to that of AISI 420F grade steel and containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between

0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of 185 kgf/mm2, plus or minus 10, yield strength of 150 kgf/mm2, plus or minus 8, and hardness (Hv) of 540, plus or minus 30.

Also excluded is suspension foil, a specialty steel product used, *e.g.*, in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 µm, with a thickness tolerance of plus-or-minus 2.01 µm, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth, and must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of these investigations. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths of 1.016 to 228.6 mm, and a thickness between 0.0127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available, *e.g.*, under the trade name ''Arnokrome III.'' [1]

Electrical resistance alloy steel is also not included in the scope of these investigations. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available, *e.g.*, under the trade name ''Gilphy 36.'' [2]

Finally, certain stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives) is also excluded. This steel is similar to ASTM grade 440F, but containing higher levels of molybdenum. This steel contains, by weight, carbon of between 1.0 and 1.1 percent, sulphur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and cobalt. This steel is sold under, *e.g.* the proprietary name GIN4Mo.[3]

All interested parties are advised that additional issues pertaining to the scope of these investigations are still pending. Furthermore, the exclusions outlined above are subject to further revision and refinement. The Department plans on notifying interested parties of its determinations on all scope issues in sufficient time for parties to comment before the final determination.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations as codified at 19 CFR Part 351 (1998).

Injury Test

Because the Republic of Korea (Korea) is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (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 August 9, 1998, the ITC announced its preliminary determination finding that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from Korea of the subject merchandise (*see Certain Stainless Steel Sheet and Strip from France, Germany, Italy, Japan, the Republic of Korea, Mexico, Taiwan and the United Kingdom*, 63 FR 41864 (August 9, 1998)).

Alignment With Final Antidumping Duty Determination

On July 22, 1998, the petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. *See Initiation of Antidumping Investigations: Stainless Steel Sheet and Strip in Coils From France, Germany, Italy, Japan, Mexico, South Korea, Taiwan, and the United Kingdom*, 63 FR 37521 (July 13, 1998). Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determinations in the antidumping investigations of stainless steel sheet and strip in coils.

Period of Investigation

The period of investigation for which we are measuring subsidies (the POI) is calendar year 1997.

Use of Facts Available

Both Sammi Steel Co., Ltd. (Sammi) and Taihan Electric Wire Co., Ltd. (Taihan), two producers of subject merchandise, failed to respond to the Department's questionnaire. Section 776(a)(2) of the Act requires the use of facts available when an interested party withholds information that has been requested by the Department, or when an interested party fails to provide the information requested in a timely manner and in the form required. In such cases, the Department must use the facts otherwise available in reaching the applicable determination. Because Sammi and Taihan failed to submit the information that was specifically requested by the Department on two separate occasions, and because the GOK also failed to provide the information requested, we have based our preliminary determination for these companies on the facts available. In addition, the Department finds that by not providing the requested information, respondents have failed to cooperate to the best of their abilities.

In accordance with section 776(b) of the Act, the Department may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available when the party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such adverse inference may include reliance on information derived from (1) the petition; (2) a final determination in a countervailing duty or an antidumping investigation; (3) any previous administrative review, new shipper review, expedited antidumping review, section 753 review, or section 762 review; or (4) any other information placed on the record. *See* section 351.308(c) of the Department's regulations. In the absence of

[1] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

[2] ''Gilphy 36'' is a trademark of Imphy, S.A.

[3] ''Gin4Mo'' is the proprietary grade of Hitachi Metals America, Ltd.

information from the GOK and the respondents, we consider the petition, as well as our findings from the *Final Affirmative Countervailing Duty Determinations and Final Negative Critical Circumstances Determinations: Certain Steel Products from Korea,* 58 FR 37338 (July 9, 1993) (*Steel Products from Korea*), to be appropriate bases for a facts available countervailing duty rate calculation.

In *Steel Products from Korea,* we determined a country-wide *ad valorem* subsidy rate of 4.64 percent based on many of the same programs alleged in this case. Therefore, we are using the highest published *ad valorem* rate of 4.64 percent that was calculated in *Steel Products from Korea* as representative of the benefits from the industry-wide subsidies alleged in this petition, and received by the other respondents in this investigation. In addition, we are also applying a facts available rate to Sammi and Taihan for a subsidy program newly reviewed in this investigation, POSCO's two-tiered pricing structure to domestic customers. We found this program to be countervailable, and calculated company-specific program rates for Dai Yang and Inchon; as discussed below, we used Inchon's calculated rate for this program as adverse facts available for Sammi and Taihan. (A detailed discussion of this program can be found in the ''Programs Preliminarily Determined to be Countervailable'' section of this notice.)

Therefore, in Taihan's case, we used the 4.64 rate from *Steel Products from Korea* because the subsidy programs alleged in this investigation, with the exception of the one new allegation, are virtually identical to the programs for which the 4.64 rate in *Steel Products from Korea* was calculated. In addition, in accordance with section 776(b)(4) of the Act, for the two-tiered pricing program, we are applying the highest calculated company-specific rate for this program to Taihan as adverse facts available, 5.51 percent *ad valorem,* the company-specific program rate for Inchon. We added this 5.51 percent rate to the 4.64 percent rate (representing the program rates of the other subsidy allegations) to arrive at a total *ad valorem* rate of 10.15 percent as adverse facts available for Taihan.

In Sammi's case, in addition to applying the 4.64 rate from *Steel Products from Korea* for most of the programs covered in this investigation and the 5.51 rate for POSCO's two-tiered pricing structure, we calculated rates for three other programs that have not previously been investigated, and which were Sammi-specific subsidy allegations. These newly alleged programs are: (1) 1992 emergency loans to Sammi Steel; (2) the ''national subsidy'' provided to Sammi; and (3) POSCO's purchase of Sammi Specialty Steel for more than adequate remuneration. There programs are dealt with individually below in the ''Programs Preliminarily Determined to be Countervailable'' section of this notice. As provided for in the Act, we used the data in the petition as adverse facts available for the calculation of the program rates for the 1992 emergency loans to Sammi Steel and the ''national subsidy'' provided to Sammi. We used information provided in the petition and in POSCO's questionnaire responses (public version on file in the Department's Central Records Unit, Room B–099), for the calculation of the program rate for POSCO's purchase of Sammi Specialty Steel for more than adequate remuneration. We then added the rates for these three programs and the rate representing the subsidy conferred by POSCO's two-tiered pricing structure to the other programs' rate of 4.64 percent *ad valorem* calculated in *Steel Products from Korea,* which is representative of the benefits from the other industry-wide subsidies alleged in the petition and received by the other respondents. We thus arrived at a total *ad valorem* rate of 29.23 percent as adverse facts available for Sammi.

The Statement of Administrative Action accompanying the URAA clarifies that the information from the petition and prior segments of the proceeding is ''secondary information.'' *See* Statement of Administrative Action, accompanying H.R. 5110 (H.R. Doc. No. 103–316) (1994) (SAA), at 870. If the Department relies on secondary information as facts available, section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate such information using independent sources reasonably at its disposal. The SAA further provides that to corroborate secondary information means simply that the Department will satisfy itself that the secondary information to be used has probative value. However, where corroboration is not practicable, the Department may use uncorroborated information.

With respect to the programs for which we did not receive information from cooperative respondents, the information was corroborated either through the exhibits attached to the petition or by reviewing determinations in other proceedings in which we found virtually identical programs in the same country to be countervailable. Specifically, with respect to Taihan, the programs alleged in the current investigation were virtually identical to those found to be countervailable in *Steel Products from Korea.* We were unable to corroborate the rate we used for Taihan, because the petition did not contain countervailing duty rate information for these programs. Therefore, it was not practicable to corroborate such a rate. However, we note that the SAA at 870 specifically states that where ''corroboration may not be practicable in a given circumstance,'' the Department may nevertheless apply an adverse inference. Further, in Sammi's case, (in addition to the programs from *Steel Products from Korea* discussed above), we corroborated the three newly-alleged programs with the information provided in the petition, *i.e.,* Sammi's financial statements for years 1993 through 1996, and numerous public press articles. Specifically, Sammi's financial statements show a line item entitled ''national subsidy.'' The financial statements further indicate that Sammi's debt burden was very high and that the company was not making interest payments that reflected the significant debt load. This demonstrates that the GOK may have entrusted or directed government and/or commercial banks to provide the type of emergency loan package to Sammi in 1992 that was alleged in the Petition. Moreover, news articles indicate that the GOK was trying to rescue Sammi, and that this effort included both the emergency loans in 1992 and POSCO's purchase of Sammi Specialty Steel for more than adequate remuneration.

Additionally, the Department initiated an investigation with respect to a fourth new allegation, ''Financial Assistance in Conjunction with the 1997 Sammi Steel Company Bankruptcy.'' *see Initiation Notice.* The petitioners allege that the GOK mitigated the effects of Sammi's bankruptcy with the use of countervailable subsidies. According to petitioners, when Sammi filed for receivership in March 1997, the GOK (1) provided grants and other rescue aid which was directed through a consortium of Sammi's rivals, and (2) rescheduled Sammi's debt through a combination of loan forgiveness and reduced interest rate loans.

We requested information concerning this program from the GOK and Sammi. While Sammi chose not to cooperate in this investigation, the GOK responded to the Department's questionnaires, stating that there was no consortium and that there were no grants. The GOK further stressed that Sammi's debt was addressed in the context of normal

bankruptcy proceedings. Neither the information in the GOK's response nor that in the petition is complete enough to make a determination about this program. Because we have received no information from Sammi, we do not have sufficient evidence to stop investigating this program. We will continue to search for information that will enable us to make a facts available determination about this program in our final determination.

Subsidies Valuation Information

Benchmarks for Long-term Loans and Discount Rates: In *Steel Products from Korea,* we stated that the three-year corporate bond yield ''was the best indicator of a market rate in Korea.'' *See* 58 FR at 37346. Because the applicable facts of this investigation are virtually identical to those in *Steel Products from Korea,* in conformance with that prior decision, we have used the three-year corporate bond yield as our long-term benchmark. For variable rate loans for which the benefit is calculated on the interest payment during the POI, we have used as our benchmark the three year over-the-counter corporate bond rate, as reported by the GOK in its September 10, 1998, questionnaire response (public version on file in the Department's Central Records Unit, Room B–099). We have also used the three-year corporate bond yield to calculate the benefit from fixed rate loans provided under the Energy Savings Fund.

For years in which the companies under investigation have been deemed uncreditworthy, we calculated the discount rates according to the methodology described in the *General Issues Appendix,* which is appended to the *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria,* 58 FR 37225, 37227 (July 9, 1993) (*GIA*). Specifically, due to the necessary use of adverse facts available with regard to Sammi, we used the highest commercial bank loan interest rates available, and added a risk premium equal to 12 percent of the commercial lending rate, in accordance with the methodology outlined in the *GIA.*

Benchmarks for Short-Term Financing: For those programs that require the application of a short-term interest rate benchmark, we used as our benchmark the company-specific, weighted-average, short-term interest rates for won-denominated loans for the POI. The three responding companies provided to the Department their respective company-specific interest rate.

Allocation Period

In the past, the Department has relied upon information from the U.S. Internal Revenue Service (IRS) for the industry-specific average useful life of assets in determining the allocation period for non-recurring subsidies (IRS Tables). *See* the *GIA.* In *British Steel plc* v. *United States,* 879 F. Supp. 1254 (CIT 1995) (*British Steel I*), the U.S. Court of International Trade (the Court) held that the IRS information did not necessarily reflect a reasonable period based on the actual commercial and competitive benefit of the subsidies to the recipients. In accordance with the Court's remand order, the Department calculated a company-specific allocation period for non-recurring subsidies based on the average useful life (AUL) of non-renewable physical assets. This remand determination was affirmed by the Court on June 4, 1996. *See British Steel plc* v. *United States,* 929 F. Supp. 426, 439 (CIT 1996) (*British Steel II*).

In recent countervailing duty investigations, it has been our practice to follow the Court's decision in *British Steel II,* and to calculate a company-specific allocation period for all countervailable non-recurring subsidies. In this investigation, the only responding company for which it was necessary to examine the company-specific AUL was POSCO, as neither Inchon nor Dai Yang received non-recurring grants. However, our analysis of the data submitted by POSCO regarding the AUL of its assets has revealed several problems.

First, POSCO included special accelerated depreciation expenses and a depreciation of salvage value in its calculated AUL. POSCO reported that the accelerated depreciation is permitted in accordance with Korean GAAP for plant and equipment which operate for a standard eight-hour work day, and for facilities and equipment which operate longer than a standard eight-hour day. However, since POSCO is a producer of steel products, it appears to be the company's normal course of business to operate its facilities longer than a standard eight-hour day. With respect to the depreciation of salvage values, POSCO stated that pursuant to changes in Korean tax law as of January 1, 1995, ''companies were permitted to fully depreciate the remaining 10 percent of the acquisition cost of depreciable assets acquired prior to January 1, 1995 that had not been fully depreciated as of December 31, 1993.'' *See* POSCO's September 10, 1998, questionnaire response at 8 (public version on file in the Cental Records Unit of the Department of Commerce, Room B–099). However, while POSCO stated that the depreciation of this salvage value is included in the amounts for regular depreciation for 1995 through 1997, we do not have sufficient information to determine how to treat this salvage value in calculating POSCO's AUL. Further, we note that POSCO's calculations of its AUL show an item for ''Revaluations,'' a term which is not explained in the response.

Based on the concerns outlined above, we preliminarily determine that POSCO's calculation of its company-specific AUL should not be used to determine the appropriate allocation period for non-recurring subsidies. Rather, for purposes of this preliminary determination, we are using 15 years as set out in the IRS Tables. We intend to request clarification and additional information concerning POSCO's AUL data during the course of this investigation.

While we have not used POSCO's company-specific AUL because of the concerns outlined above, even if we were to use the company-specific data submitted by POSCO, the facts of this case pose additional concerns and possible inconsistencies. In particular, this investigation covers countervailable non-recurring subsidies benefitting POSCO, *i.e.,* GOK infrastructure investments at Kwangyang Bay. These same non-recurring subsidies to the same company were previously found countervailable in *Certain Steel Products From Korea. See* 58 FR at 37346. In that investigation, the Department allocated the benefits from these GOK investments over 15 years based on information from the U.S. Internal Revenue Service (IRS) for the industry-specific average useful life of assets. Under current Department practice, previously allocated subsidies within the same proceeding are not given a new allocation period. Rather, it is our policy to retain the allocation period originally established for the subsidies in subsequent administrative reviews of the same preceding.

We note here that in the concurrent investigation of stainless steel sheet and strip in coils from France, the Department preliminarily determined that it is more appropriate to continue allocating non-recurring subsidies over the company-specific AUL of 14 years, which was calculated as a result of *British Steel II.* Although this was a company-specific AUL, it was the AUL applied in a prior investigation of the same subsidies to the same company that are currently being examined in the investigation of stainless steel sheet and strip in coils from France. The issue we

are presented with is whether the allocation period, once established for a subsidy to a company, should change in different proceedings. If the allocation period did not change across proceedings, the same GOK infrastructure investments described above will be allocated over 15 years in both the current investigation and in the recently initiated administrative review of *Certain Steel From Korea*. That review covers calendar year 1997. However, if we were to adopt different allocation periods for different proceedings, the same subsidy to the same company would be allocated over different periods, since POSCO calculated an AUL of 9 years, assuming the calculation presented by and based on company-specific data was accepted by the Department. Thus, the same subsidy to the same company would have different allocation periods across separate proceedings: 15 years in Certain Steel and 9 years in this investigation.

We encourage parties to comment on this issue and whether an alternative approach may be more appropriate. One option may be to retain the allocation period of a subsidy previously investigated in a prior investigation, rather than assign a new company-specific allocation period based on company-specific AUL data. As described above, this would conform with our practice in administrative reviews of the same countervailing duty order. Alternatively, an additional option would be to determine an individual AUL for each year in which a non-recurring subsidy is provided to a company, rather than to determine a company-specific AUL for non-recurring subsidies that could change with each investigation and result in different allocation periods for the same subsidy, as detailed above. We also welcome any additional comments on this issue not raised above.

This investigation also includes non-recurring grants to Sammi that have not been previously investigated. However, because we have no information from Sammi, we are basing the countervailing duty rate for Sammi on the facts available. Thus, as facts available, we are using the 15 years as set out in the U.S. Internal Revenue Service's Class Life Asset Depreciation Range System (for a more detailed discussion see the *GIA*).

Treatment of Subsidies Received by Trading Companies: We required responses from the trading companies because the subject merchandise may be subsidized by means of subsidies provided to both the producer and the exporter of the subject merchandise. Subsidies conferred on the production and exportation of subject merchandise benefit the subject merchandise even if the merchandise is exported to the United States by an unaffiliated trading company rather than by the producer itself. Therefore, the Department calculates countervailable subsidy rates on the subject merchandise by cumulating subsidies provided to the producer with those provided to the exporter. During the POI, POSCO and Inchon exported subject merchandise to the United States through trading companies. We required that the trading companies provide responses to the Department with respect to the export subsidies under investigation. One of the trading companies, POSTEEL, is affiliated with POSCO within the meaning of section 771(33)(E) of the Act because POSCO owned 95.3 percent of POSTEEL's shares as of December 31, 1997. The other trading companies are not affiliated with POSCO. Additionally, according to its response, Inchon is affiliated with one of the trading companies, Hyundai. This reported affiliation is based upon cross-shareholdings and common board members within the Hyundai group. The trading company, Hyundai, did respond to the Department's questionnaire concerning subsidies that it had received during the POI. However, because the status of affiliation does not affect the calculated subsidy rate for Inchon for the purpose of including subsidies provided to trading companies in Inchon's rate, we have not made a determination of the affiliation of Inchon and Hyundai within the meaning of section 771(33)(E) of the Act.

Under section 351.107 of the Department's Regulations, when the subject merchandise is exported to the United States by a company that is not the producer of the merchandise, the Department may establish a ''combination'' rate for each combination of an exporter and supplying producer. However, as noted in the ''Explanation of the Final Rules'' (the Preamble), there may be situations in which it is not appropriate or practicable to establish combination rates when the subject merchandise is exported by a trading company. In such situations, the Department will make exceptions to its combination rate approach on a case-by-case basis. *See Antidumping Duties; Countervailing Duties; Final rule,* 62 FR 27296, 27303 (May 19, 1997).

In this investigation, we preliminarily determine that it is not appropriate to establish combination rates. This determination is based on two main facts: first, the majority of the subsidies conferred upon the subject merchandise were received by the producers; second, the difference in the levels of subsidies conferred upon individual trading companies with regard to the subject merchandise is insignificant. Combination rates would serve no practicable purpose because the calculated subsidy rate for a producer and a combination of any of the trading companies would effectively be the same rate. For these reasons we are not calculating combination rates in this investigation.

Instead, the rates that we have calculated for the producers of subject merchandise include the subsidies received by the trading companies. To reflect those subsidies that are received by the exporters of the subject merchandise in the calculated *ad valorem* subsidy rate, we used the following methodology. For each of the seven trading companies, we calculated the benefit attributable to the subject merchandise. We then factored that amount into the calculated subsidy rate for the relevant producer. In each case, we determined the benefit received by the trading companies for each export subsidy, and weighted the average of the benefit amounts by the relative share of each trading company's value of exports of the subject merchandise to the United States. These calculated *ad valorem* subsidies were then added to the subsidies calculated for the producers of subject merchandise. Thus, for each of the programs below, the listed ad valorem subsidy rate includes countervailable subsidies received by both the producing and trading companies.

Creditworthiness

As stated in our *Initiation Notice,* we initiated an investigation of Inchon's creditworthiness from 1991 through 1997, and of Sammi's creditworthiness from 1990 to 1997, to the extent that nonrecurring grants, long-term loans, or loan guarantees were provided in those years.

When the Department examines whether a company is creditworthy, it is essentially attempting to determine if the company in question could obtain commercial financing at commonly available interest rates. If a company receives comparable long-term financing from commercial sources, that company will normally be considered creditworthy. In the absence of comparable commercial borrowing, the Department examines the following factors, among others, to determine whether or not a firm is creditworthy:

1. Current and past indicators of a firm's financial health calculated from that firm's financial statements and accounts.

2. The firm's recent past and present ability to meet its costs and fixed financial obligations with its cash flow.

3. Future financial prospects of the firm including market studies, economic forecasts, and projects or loan appraisals.

For a more detailed discussion of the Department's creditworthiness criteria, *see, e.g., Final Affirmative Countervailing Duty Determinations: Certain Steel Products from France,* 58 FR 37304 (July 9, 1993) (*Certain Steel from France);* and *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from the United Kingdom,* 58 FR 37393 (July 9, 1993).

Inchon

In accordance with the Department's past practice, the receipt by a firm of comparable long-term commercial loans, provided without a government guarantee constitutes dispositive evidence that the firm is creditworthy. *See, e.g., Final Negative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Laminated Hardwood Trailer Flooring from Canada,* 62 FR 5201 (February 4, 1997). During the years under investigation, Inchon received numerous loans from both government-owned and private banks. Because petitioners also alleged that Inchon received government-directed credit, we have also looked at Inchon's bond issuances as comparable commercial financing. Even if the existence of these loans does not, on its own, constitute dispositive evidence that the firm is creditworthy, it is evidence that Inchon was capable of managing its long-term debt obligations.

In addition, we considered Inchon's present and past financial health, as reflected in various financial indicators calculated from the firm's financial statements and accounts, in making our determination. To this end, we calculated Inchon's financial indicators for the years 1988 through 1996. In our examination of Inchon's relevant financial ratios, we did not find that the company would be unable to meet its debt obligations. Furthermore, Inchon's financial health remained relatively stable over the years examined, without the appearance of any significant deterioration.

Although a number of the financial indicators were found to be weak during certain years, the medium- and long-term indicators do not support a determination that Inchon was uncreditworthy in any of the years examined. Furthermore, while there is a possibility that Inchon's long-term commercial financing (*e.g.* bonds) may not be dispositive evidence of creditworthiness because of government direction of credit, it serves as further evidence that Inchon was capable of meeting its long-term debt obligations. Based on these observations, we preliminarily find that Inchon was creditworthy for the years under investigation. *See* Creditworthiness Memorandum, on file in the public file of the Central Records Unit of the Department of Commerce, Room B–099.

Sammi

Because Sammi and the GOK chose not to respond with regard to this allegation, we used the information and financial data provided in the petition as the facts available in accordance with section 776(b) of the Act. (For further discussion, see the ''Facts Available'' section of this notice.) Petitioners alleged that Sammi was uncreditworthy during the period of 1983 through 1997 (although we deemed it appropriate to investigate only the 1990 through 1997 time period). *See Initiation Notice*. To illustrate the deterioration of Sammi's financial health, petitioners provided press articles and debt and profit ratios for the years of 1990 to 1996 based on the company's financial data. *See* the June 10, 1998, Petition at Exhibit 11 and 13, and their June 24, 1998, submission at Attachment 3. Based on this information, it appears that the company was nearly insolvent, as Sammi had shown a profit only once since 1991 and lacked strong future prospects. We reviewed the financial data of Sammi that was provided in the petition. The data indicate that, during the years 1990 through 1997, Sammi was not in good financial condition. The company's current ratio, quick ratio, and times interest earned ratios were low, indicating that Sammi may have had difficulty servicing new debt. In addition, the company's profit margins were low or negative. Further, it appears from such documentation that Sammi was having increasing difficulty in meeting its financial obligations.

In many cases, the Department considers a company to be creditworthy if it is able to procure commercial loans. However, in this case, the company's ability to obtain commercial loans is unclear, as information provided by petitioners indicates that the GOK may have been directing commercial banks to provide emergency financing to Sammi in order to avoid the company's bankruptcy. Based on this information, we preliminarily determine that Sammi was uncreditworthy from 1990 through 1997.

I. Programs Preliminarily Determined To Be Countervailable

A. Direction of Credit

In the 1993 investigation of *Steel Products from Korea,* the Department determined (1) that the GOK influenced the practices of lending institutions in Korea; (2) that the GOK regulated long-term loans provided to the steel industry on a selective basis; and (3) that the selective provision of these regulated loans resulted in a countervailable benefit. Accordingly, all long-term loans received by the producers/exporters of the subject merchandise were treated as countervailable. The determination in that investigation covered all long-term loans bestowed through 1991. *See* 58 FR at 37339.

In this investigation, petitioners allege that the GOK continued to control the practices of lending institutions in Korea through the POI, and that the steel sector received a disproportionate share of low-cost, long-term credit, resulting in the conferral of countervailable benefits on the producers/exporters of the subject merchandise. Petitioners assert, therefore, that the Department should countervail all long-term loans received by the producers/exporters of the subject merchandise that were still outstanding during the POI.

1. The GOK's Credit Policies Through 1991. As noted above, we previously found significant GOK control over the practices of lending institutions in Korea through 1991, the period investigated in *Steel Products From Korea.* This finding of control was determined to be sufficient to constitute a government program and government action. *See* 58 FR at 37342. We also determined that (1) the Korean steel sector, as a result of the GOK's credit policies and control over the Korean financial sector, received a disproportionate share of regulated long-term loans, so that the program was, in fact, specific, and (2) that the interest rates on those loans were inconsistent with commercial considerations. *Id.* at 37343. Thus, we countervailed all long-term loans received by the steel sector from all lending sources.

In this investigation, we provided the GOK with the opportunity to present new factual information concerning the government's credit policies prior to 1992, which we would consider along with our finding in the prior investigation. The GOK has not

provided new factual information that would lead us to change our determination in *Steel Products from Korea*. Therefore, we preliminarily determine that the provision of long-term loans in Korea through 1991 results in a financial contribution within the meaning of section 771(5)(D)(i) of the Act. This finding is in conformance with the SAA, which states that ''section 771(5)(B)(iii) encompasses indirect subsidy practices like those which Commerce has countervailed in the past, and that these types of indirect subsidies will continue to be countervailable.'' SAA at 925. In accordance with section 771(5)(E)(ii) of the Act, a benefit has been conferred to the recipient to the extent that the regulated loans are provided at interest rates less than the benchmark rates described under the ''Subsidies Valuation'' section, above.

We also preliminarily determine that all regulated long-term loans provided to the producers/exporters of the subject merchandise through 1991 were provided to a specific enterprise or industry, or group thereof, within the meaning of section 771(5A)(D)(iii)(III) of the Act. This finding is in conformance with our determination in *Steel Products from Korea. See* 58 FR at 37342.

POSCO, Inchon and Dai Yang all received long-term loans prior to 1992 that were still outstanding during the POI. These included loans with both fixed and variable interest rates for all three responding companies. To determine the benefits from the regulated loans with fixed interest rates, we applied the Department's standard long-term loan methodology and calculated the grant equivalent for the loans. For the variable-rate loans, we compared the amount of interest paid during the POI on the regulated loans to the amount of interest that would have been paid at the benchmark rate. We then summed the benefit amounts from all of the loans attributable to the POI and divided the total benefit by each company's total sales. On this basis, we determine the countervailable subsidy rates to be 0.15 percent *ad valorem* for POSCO, 0.04 percent *ad valorem* for Inchon, and 0.06 percent *ad valorem* for Dai Yang.

2. The GOK's Credit Policies From 1992 Through 1997. We have also examined the GOK's credit policies during the period 1992 through 1997. Because of the complexity of this issue and the conflicting information on the record, which we discuss below, we will continue to seek additional information on whether the GOK's practices during this period confer a countervailable subsidy. After we collect additional information and conduct verification, we will prepare an analysis memorandum addressing the countervailability of the GOK's credit policies during this period and provide all parties with an opportunity to comment on our analysis.

In its questionnaire responses, the GOK asserts that there was no government policy to direct long-term credit to the Korean steel industry during the period 1992 through 1997, and that it was not involved in the lending activities of Korean financial institutions. The GOK states that the lending decisions and loan distributions of financial institutions in Korea reflect commercial considerations. The GOK states that its role in the financial sector is limited to monetary and credit policies as well as bank supervision and examination.

Evidence submitted to the Department by the GOK indicates that some deregulatory measures affecting the Korean financial sector have been taken since 1991. These include a four-stage interest rate deregulation plan that, according to the GOK, virtually eliminated all government control over deposit and lending rates in Korean won. For example, rates on corporate bonds and all bank loans, other than those assisted by Bank of Korea (BOK) rediscounts, were deregulated by November 1993. Also, information submitted to the Department by the GOK indicates that there have been reforms to the process by which commercial bank presidents are selected. The reforms include a procedure, implemented in 1993, whereby bank chairmen are selected by committees consisting of shareholder representatives, corporate clients, and ex-bank presidents. In 1997, the GOK further amended the Banking Act to prescribe that a candidate for bank president, recommended by a candidate recommendation committee, must be elected by an affirmative vote of a two-thirds majority of the non-permanent directors of the bank.

However, other information in the record indicates that the GOK may still exert substantial influence over the lending decisions of financial institutions. For example, recent GOK policies appear to be aimed, in part, at promoting certain sectors of the economy, such as high technology and small and medium sized enterprises (SMEs). *See, e.g.,* ''KDB Financial Support for Korean Industries,'' from the Korea Development Bank appended to ''Memorandum From Case Analyst to File, Re: Articles on Korean Financial System'' (on file in the public file of the Central Records Unit of the Department of Commerce, Room B–099) (''Korean Financial System Memo''). Other official information on the record appears to suggest that the GOK may have continued the practice of directing credit after 1991. Independent commentators have also noted the GOK's continued involvement in the financial system. *See, e.g., Deep Pockets,* ''The Economist'' (May 3, 1997), appended to Korean Financial System Memo; *Financing Foreign Operations, South Korea,* The Economist Intelligence Unit, 1997, page 20 (1997), appended to Korean Financial System Memo; *The Korean Economy in 1997: Crisis and Response,* by Thomas Byrne, appended to Korean Financial System Memo.

As noted above, in light of this conflicting information, at verification and during the course of this proceeding, we will gather additional information in order to make a determination as to whether credit provided after 1991 is countervailable. During verification, we plan to meet with various individuals who are knowledgeable about the financial sector in Korea in order to gather information about the differences between the GOK's credit policies in the 1980s and the 1990s; the lending practices of government-owned banks and of commercial lending institutions; the role of securities (public and corporate bonds) in the financial system; and the impact of the GOK's financial liberalization on the lending practices of Korean banks after 1991.

B. Loans From the Energy Savings Fund

Established in accordance with Article 51 of the ''Rationalization of Energy Utilization Act'' (Energy Use Act), the Energy Saving Fund provides financing at below-market interest rates for investment by businesses in facilities that rationally and efficiently use energy. Overall responsibility for the program lies with the Ministry of Industry and Energy (MIE), but the operation and management of the program is entrusted to the Korea Energy Management Corporation (KEMC). While the Energy Use Act was repealed in 1995, the MIE, under the new ''Energy Use Rationalization Act,'' provides financing for this program from special government accounts.

Korean companies obtain financing under this program by submitting an application to the KEMC. If the KEMC is satisfied that the applicant's business plans are intended for the rationalization of energy use, it will then issue a recommendation, and forward the company's application to a

bank. The KEMC will transfer funds to the bank, which will in turn provide the funds to the applicant. The interest rate charged under the Energy Saving Fund was set at 7.0 percent. POSCO and Inchon paid interest on Energy Saving Fund (ESF) loans during the POI, and the interest rates paid by the companies were less than the 7.0 percent rate prescribed by the program. POSCO received two ESF loans, both in 1994, and both at interest rates below 7.0 percent. Inchon also received two ESF loans, one before 1992 and one after 1992. The pre-1992 ESF loan was at a rate below the prescribed interest rate set by the program.

We preliminarily determine that the program provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act and, in accordance with section 771(5)(E)(ii) of the Act, provides a benefit to the recipient based on the difference between the interest rate on the program loan and the benchmark rate described in the ''Subsidies Valuation'' section, above. We also preliminarily determine that the loans provided to POSCO and the pre-1992 loan made to Inchon were specific within the meaning of section 771(5A)(D)(iii)(IV) of the Act, because the interest rates charged to POSCO and Inchon were less than the program interest rate prescribed by the program's regulations. We note that the ESF loan received by Inchon before 1992 would also be found to be countervailable under our determination in the 1993 investigation of *Steel Products from Korea* that the GOK directed credit to the steel industry. *See also* the ''Direction of Credit'' section in this preliminary determination.

To calculate the benefit from the Energy Savings Loans, we employed the Department's standard long-term loan methodology, using as our benchmark the rate described in the ''Subsidies Valuation'' section of the notice, above. We divided the benefit attributable to the POI by each company's total sales during 1997. On this basis, we preliminarily determine the countervailable subsidy to be less than 0.005 percent *ad valorem* for POSCO and for Inchon.

We have not yet made a determination on whether the post-1992 ESF loan provided to Inchon is countervailable. According to the information provided by the GOK and Inchon, the interest rate on the post-1992 loan is in accordance with the prescribed rates under the ESF program. Thus, we must make a specificity determination on the ESF program under section 771(5A)(D) of the Act. The information on the record regarding the specificity of the ESF program is inconclusive. Therefore, we are seeking additional information on this program and will make our determination of the specificity of the program in our final determination. We will offer all interested parties an opportunity to comment on any additional factual information obtained concerning this program.

C. 1992 ''Emergency Loans'' to Sammi Steel

The petition alleges that in 1992 the GOK directed a package of 132 billion won in ''emergency loans'' to Sammi in order to save the company from bankruptcy. Because Sammi and the GOK chose not to respond with regard to this allegation, we used the information and data provided in the petition as adverse facts available, in accordance with section 776(b) of the Act. This information, in conjunction with our finding that Sammi was uncreditworthy during the year in question, indicates that Sammi was the recipient of a government-directed emergency loan package in 1992, and that this loan package provided a financial contribution in accordance with section 771(5)(D)(i) of the Act. In addition, because this emergency loan package was only provided to Sammi, we preliminary determine that the program is specific under section 771(5A)(D) of the Act.

Under section 771(5)(E)(ii) of the Act, the benefit from a countervailable loan is based upon 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. Because the loans in question are part of a government-directed emergency loan package to forestall Sammi's bankruptcy, it is reasonable to assume that the company would not have been able to actually obtain alternative financing absent the participation of the government. Therefore, for this preliminary determination, as facts available, we are treating these emergency loans of 132 billion won as interest-free loans which are rolled over from year to year. A review of Sammi's 1996 financial statements indicate that the company is paying little interest on outstanding debt, interest that may not have been sufficient to cover even its short-term debt. Thus, we are calculating the benefit from these interest-free loans using the Department's standard long-term variable rate loan methodology. To calculate the benefit from this program during the POI, we took the amount of the loans, 132 billion won, and calculated the amount of interest that would have been paid on that amount. As facts available, we have used as a benchmark interest rate the highest available commercial loan rate, plus a risk premium. For a more detailed discussion, *see* the ''Subsidies Valuation'' section of this notice. We divided the benefit attributable to the POI by Sammi's total sales during 1996. We used the sales figure reported in Sammi's 1996 financial statements as a proxy for the 1997 sales because we do not have any information of the value of Sammi's sales for the POI. On this basis, we preliminarily determine the countervailable subsidy conferred to be 3.18 percent ad valorem.

Petitioners have argued that under the application of adverse facts available, with no other information on the record, the emergency loans received by Sammi should be treated as grants. However, for the purposes of this preliminary determination, it is appropriate to treat this emergency loan package as loans. When this program was initially alleged, it was alleged that the GOK had provided a large amount of money to Sammi in the form of loans. *See* the June 10, 1998, Petition at page 56 (public version on file in the public file of the Central Records Unit of the Department of Commerce, Room B–099). Moreover, the information provided in the petition which was the basis for the Department's initiation of an investigation into this program, describes this program as a loan package. *See* the June 10, 1998 Petition at Exhibit 8 (public version on file in the public file of the Central Records Unit of the Department of Commerce, Room B–099).

D. ''National Subsidy'' to Sammi

The petitioners allege that in 1993 Sammi received a ''national subsidy'' in the amount of 39 million won. They provide the company's 1993 financial statement, which has an entry for the alleged subsidy, although the nature of the subsidy is not explained. Neither Sammi nor the GOK submitted any information to the record explaining this subsidy. Therefore, in accordance with 776(b) of the Act, we used the information provided in the petition. We find this program to be countervailable because this subsidy was given only to Sammi, and thus, it is specific under section 771(5A)(D) of the Act, and a financial contribution was provided to Sammi under section 771(5)(D)(ii) of the Act.

Because no other information was provided, we are treating this ''national subsidy'' as a grant bestowed upon

Sammi. In order to calculate the rate for this program, we employed the Department's grant methodology. *See GIA*, 58 FR at 37225–31. However, because the total amount of the national subsidy is less than 0.50 percent of Sammi's 1993 sales, we have expensed the grant in the year of receipt. Thus, there is no benefit under this program during the POI.

E. Purchase of Sammi Specialty Steel Division for More than Adequate Remuneration

In February 1997, POSCO purchased the specialty steel bar and pipe division of Sammi for 719.4 billion won. This division became POSCO's Changwon facility. Petitioners alleged that POSCO was directed by the government to purchase the Sammi Specialty Steel Division as a matter of national interest as opposed to one of economic merit. Petitioners alleged that the GOK used its ownership in POSCO as a vehicle for the subsidization of Sammi. Thus, petitioners allege that POSCO's purchase of the Sammi Specialty Steel Division was for more than adequate remuneration.

As noted in the ''Use of Facts Available'' section of this notice, Sammi refused to respond to the Department's questionnaires. POSCO has provided certain documents relevant to this purchase, but Sammi's refusal to respond to our questionnaires means that significant portions of information required by the Department to analyze this program have not been provided. Thus, in making this preliminary determination, we have relied on both information provided by POSCO and information provided in the petition with respect to this allegation. In accordance with section 776(b) of the Act, the Department may use an inference that is adverse to the interest of a party when selecting from facts otherwise available when the party has failed to cooperate with a request for information. As discussed in the ''Use of Facts Available'' section, we determined that Sammi has failed to cooperate by not answering the Department's questionnaire.

Based on the information on the record, we preliminarily determine that the actions of POSCO should be considered as an action of the GOK because POSCO is a government-controlled company. During the POI, the GOK was the largest shareholder of POSCO. We also note that POSCO is one of three companies designated as a ''Public Company'' by the GOK. One of the other ''Public Companies'' is the state-run utility company, KEPCO. This determination that POSCO should be treated as a government-owned provider of a good or service is consistent with other cases involving the provision of a good or service by government-owned companies. *See, e.g., Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Venezuela,* 62 FR 55014 (October 22, 1997).

Over the course of this investigation, we have reviewed numerous documents that relate to this purchase, including the valuation studies and the purchase contract between POSCO and Sammi. The amount paid by POSCO was significantly higher than the value defined by POSCO's own interim valuation report. Ostensibly, Sammi used the proceeds from the sale to pay debts owed by its other divisions. It appears as though the purchase price agreed upon by POSCO and Sammi included money both for the assets that POSCO was purchasing and for the repayment of debt associated with these assets. *See* POSCO's October 21, 1998, supplemental questionnaire response at Exhibit F–12, public version on file in the public file of the Central Records Unit of the Department of Commerce, Room B–099.

According to section 771(5)(E) of the Act, the adequacy of remuneration with respect to a government's provision of a good or service shall be determined in relation to prevailing market conditions for the good or service being provided or the goods being purchased in the country which is subject to the investigation or review. Because no information was provided by Sammi with respect to this program, as facts available the adequacy of remuneration was based on a comparison of the value and profitability of Sammi's bar and pipe division, as described in POSCO's valuation report, with the actual purchase price. On this basis, the Department preliminarily determines that POSCO made this purchase for more than adequate remuneration, thereby conferring a benefit under section 771(5)(E)(iv) of the Act. In accordance with section 771(5A)(D)(i) of the Act, we find that this program is specific to Sammi.

To calculate a countervailing duty rate for this purchase, we treated the excessive remuneration, *i.e.,* the amount paid for Sammi by POSCO in excess of POSCO's own valuation, as a non-recurring grant and allocated it over the average useful life of assets in the industry. For a discussion of the AUL, see the ''Subsidies Valuation'' section of this notice. Based on this methodology, we calculated a countervailable subsidy of 15.90 percent *ad valorem* for Sammi for this program during the POI.

F. Kwangyang Bay

Petitioners requested that the Department investigate whether the GOK's infrastructure development at Kwangyang Bay continues to provide a countervailable subsidy to POSCO's steel production. The Department previously determined that the Korean government's infrastructure development at Kwangyang Bay constituted a specific countervailable subsidy to POSCO, because POSCO was found to be the predominant user of the infrastructure. *See Steel Products from Korea,* 58 FR at 37346–47. Because POSCO still produces steel products at Kwangyang Bay, we requested information on this program to determine whether the GOK has made additional investments since 1991, at Kwangyang Bay.

1. GOK Infrastructure Investments at Kwangyang Bay Pre-1992. In *Steel Products from Korea,* the Department investigated the GOK's infrastructure investments at Kwangyang Bay over the period 1983–1991. During this period of time, the GOK's investments at Kwangyang Bay included: construction of an industrial waterway, construction of a railroad station, construction of a road to Kwangyang Bay, dredging of the harbor, and construction of three finished goods berths. We determined that the GOK's provision of infrastructure to POSCO at Kwangyang Bay was countervailable because we found POSCO to be the predominant user of the GOK's investments. The Department has consistently 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 Steel Products from Korea,* 58 FR at 37346.

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, to determine the benefit from the GOK's investments to POSCO during the POI, we relied on the calculations performed in the 1993 investigation of *Steel Products from Korea,* which were placed on the record of this investigation by POSCO. In measuring the benefit from this program in the 1993 investigation, the Department 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. The Department used as its discount rate the three-year corporate bond rate

on the secondary market, which was the average cost of long-term fixed rate debt in Korea at that time.

We applied the Department's standard grant methodology and then allocated the GOK's infrastructure investments over a 15-year time period as described in the ''Allocation'' section of the notice, above. We used as our discount rate the three-year corporate bond rate on the secondary market used in *Steel Products from Korea.* We then summed the benefits received by POSCO during 1997, from each of the GOK's yearly investments over the period 1983–1991. We then divided the total benefit attributable to the POI by POSCO's total sales for 1997. On this basis, we preliminarily determine a countervailable subsidy of 0.29 percent *ad valorem* for the POI for POSCO.

2. GOK Infrastructure Investments at Kwangyang Bay Post-1991. The GOK has made the following additional infrastructure investments at Kwangyang Bay since 1991: construction of a road from Kwangyang to Jinwol, construction of a container terminal, and construction of the Jooam Dam. The GOK states that pursuant to Article 29 of the Industrial Sites and Development Act, it is the national and local governments' responsibility to provide basic infrastructure facilities throughout the country, and the nature of the infrastructure depends on the specific needs of each area and/or the types of industries located in a particular area. Depending upon the type of infrastructure built, the GOK provides services to companies through the use of the infrastructure facilities and charges fees for these services based on published tariff rates applicable to all users.

With respect to the GOK's post-1991 infrastructure investments at Kwangyang Bay, the GOK argues that the construction of the infrastructure was not for the benefit of POSCO. The GOK reports that the purpose of developing the Jooam Dam, which was fully constructed in 1993, was to meet the rising demand for water by area businesses and households. The supply capacity of the Sueochon dam, which was constructed prior to 1991, could not meet the area's water needs and therefore a second dam at Kwangyang Bay was built. The GOK further reports that the construction of the Jooam Dam did not benefit POSCO because POSCO receives all of its water supply from the Sueochon Dam. In *Steel Products from Korea,* we determined that POSCO was the predominant user of the Sueochon Dam, and on this basis treated the government's full investment costs for constructing that dam as countervailable subsidies benefitting POSCO.

The GOK developed the container terminal according to the Kwangyang Container Terminal Development Plan. The purpose of the container terminal was to provide another major southern port with a container terminal in order to relieve congestion at Pusan, and to encourage the further commercial development of the region. The GOK states that, given the nature of the merchandise imported, produced, and exported by POSCO at Kwangyang Bay, this container terminal cannot be used by POSCO's operations. According to the responses from the GOK and POSCO, neither steel products nor steel inputs are shipped through the container terminal at Kwangyang Bay, nor, given the nature of those products, would they be shipped through the container terminal.

The road from Kwangyang to Jinwol was constructed in 1993. The road between the two cities is a by-pass route constructed to relieve a transportation bottleneck in the area. The GOK states that this is a general service, public access road available for, and used by, all residents and businesses in the area of Kwangyang Bay. According to the GOK response, the reason for building the public highway was not to serve POSCO, but to provide general infrastructure to the area as part of the GOK's continuing development of the country.

Based on the information on the record regarding the GOK's infrastructure investments at Kwangyang Bay since 1991, we preliminarily determine that these investments are not providing countervailable benefits to POSCO. However, we will further investigate the GOK's infrastructure investments at verification to ascertain whether or not, in fact, the facilities were built for POSCO's benefit.

G. Port Facility Fees

The GOK reports in its September 10, 1998, questionnaire response that, since 1991, POSCO has built new port facilities at Kwangyang Bay, at the company's own expense. However, since titles to port facilities must be transferred to the GOK in accordance with Article 17–1 of the Harbor Act, POSCO had to revert these facilities to the GOK. In return, POSCO has the right to use the port facilities free of charge, and can charge other users a usage fee until the company recovers all of its investment costs.

In the 1993 investigation of *Steel Products from Korea,* the Department found that POSCO, which built port berths at Kwangyang Bay, but, by law, had to deed them to the GOK, was exempt from paying fees for use of the berths. POSCO was the only company entitled to use the berths at the port facility free of charge. The Department determined that because this privilege was limited to POSCO, and because the privilege relieved POSCO of costs it would otherwise have had to pay, POSCO's free use of the berths at Kwangyang Bay constituted a countervailable benefit. The Department stated that each exemption from payment of the fees, or ''reimbursement'' to POSCO, creates a countervailable benefit because the GOK is relieving POSCO of an expense the company would have otherwise incurred. *See Steel Products from Korea,* 58 FR at 37347–348.

With respect to the present investigation, because POSCO remains exempt from paying port facility fees which it otherwise would have to pay, and therefore the government is not collecting revenue that it is otherwise due, we preliminarily determine that POSCO's free use of the port facilities provides a financial contribution to the company within the meaning of section 771(5)(D)(ii) of the Act. We also preliminarily find that the exemption from paying port facility charges is a specific subsidy under section 771(5A)(D)(iii)(IV) of the Act, because POSCO was the only company exempt from paying port facility fees during the POI.

Because the exemption of the port facility fees are not ''exceptional'' benefits and are received automatically on a regular and predictable basis without further government approval, we preliminarily determine that this fee exemption provides a recurring benefit to POSCO. Therefore, we have expensed the benefit from this program in the year of receipt. *See GIA,* 58 FR at 37226. To measure the benefit which POSCO received during the POI for the free use of the facilities, we calculated the amount of the fees which POSCO would have had to pay for the use of the facilities during the POI. We then divided this benefit amount by POSCO's total sales for the POI. On this basis, we preliminarily determine that POSCO received a countervailable subsidy of 0.03 percent *ad valorem* during the POI.

H. Export Industry Facility Loans

In *Steel Products from Korea,* 58 FR at 37328, the Department determined that export industry facility loans (EIFLs) are contingent upon export, and are therefore export subsidies to the extent that they are provided at preferential rates. In this investigation,

we provided the GOK with the opportunity to present new factual information concerning these EIFLs, which we would consider along with our finding in the prior investigation. The GOK has not provided new factual information that would lead us to change our determination in *Steel Products from Korea*. Therefore, we continue to find that EIFLs are provided on the basis of export performance and are export subsidies under section 771(5A)(B) of the Act. We also preliminarily determine that the provision of loans under this program results in a financial contribution within the meaning of section 771(5)(D)(i) of the Act. In accordance with section 771(5)(E)(ii) of the Act, a benefit has been conferred to the recipient to the extent that the EIFLs are provided at interest rates less than the benchmark rates described under the ''Subsidies Valuation'' section, above.

Dai Yang was the only respondent with outstanding loans under this program during the POI. To calculate the benefit conferred by this program, we compared the actual interest paid on the loan with the amount of interest that would have been paid at the applicable benchmark interest rate. When the interest that would have been paid at the benchmark rate exceeds the interest that was paid at the program interest rate, the difference between those amounts is the benefit. We divided the benefits derived from the loans by total export sales. On this basis, we preliminarily determine that Dai Yang received from this program during the POI a countervailable subsidy of 0.04 percent *ad valorem*.

I. Short-Term Export Financing

The Department determined that the GOK's short-term export financing program was countervailable in *Steel Products from Korea*, 58 FR at 37350. Petitioners allege that this program may also have benefitted the producers and/or exporters of the subject merchandise. In this investigation, the GOK reports that the BOK, under the ''Detailed Rules of Trade Financing Related to the Aggregate Ceiling Loans'' (Detailed Rules), provides discounts on foreign trade bills to commercial banks, which, in turn, extend short-term loans to exporters. Under the aggregate credit ceiling system established in 1994, the BOK allocates a credit ceiling every month to each commercial bank, including branches of Korean and foreign banks. This ceiling is based on each bank's loan performance, *i.e.*, each bank's discounting of commercial loans, foreign trade financing, and loans for the production of parts and material. These banks then provide loans to exporters using the funds received from the BOK and funds generated from their own sources to discount trade bills.

There are two types of trade financing: production financing and raw material financing. A bank provides production financing when a company needs funds for the production of export merchandise or the production of raw materials used in the production of exported merchandise. A bank extends raw material financing to exporters which require financing for the importation or local purchase of raw materials used in the production of exported merchandise.

During the POI, POSCO and Dai Yang both received export financing. These two companies report that they entered into credit ceiling loan agreements with commercial banks in accordance with Articles 12 and 13 of the Detailed Rules to receive production financing. The loan agreements outlined the maximum amount of credit which POSCO and Dai Yang were eligible to receive, the periods covered by the loan agreements, the applicable interest rates, and the penalty interest rates.

When the exporting company purchases raw materials from a supplier on a letter of credit basis, the supplier presents the letter of credit to the exporter's bank for payment. The bank, in turn, pays the purchase price to the supplier and debits the trade loan against the exporter's line of credit. The exporter pays the full amount of each trade loan after about 90 days, which is the average period from production to sales. Interest is paid by the exporter against each trade loan at the time the loans are received. Both Dai Yang and POSCO reported that they paid all of their export financing during the POI in a timely manner and incurred no overdue interest penalties.

In accordance with section 771(5A)(B) of the Act, we preliminary determine that this program constitutes an export subsidy because receipt of the financing is contingent upon export performance. A financial contribution is provided to Dai Yang and POSCO under this program within the meaning of section 771(5)(D)(i) of the Act. In order to determine whether this export financing program confers a countervailable benefit to Dai Yang and POSCO, we compared the interest rate the companies paid on the export financing received under this program during the POI with the interest rate they would have paid on a comparable short-term commercial loan. See discussion above in the ''Subsidies Valuation Information'' section with respect to short-term loan benchmark interest rates.

Because loans under this program are discounted (*i.e.*, interest is paid up-front at the time the loans are received), the effective rates paid by POSCO and Dai Yang on their export financing are discounted rates. Therefore, it was necessary to derive from company-specific weighted-average interest rates for short-term won-denominated commercial loans, a discounted benchmark interest rate. We compared this discounted benchmark interest rate to the discounted interest rates charged on the export financing and found that the program interest rates were lower than the benchmark rates. Therefore, in accordance with section 771(5)(E)(ii) of the Act, we preliminarily determine that this program confers countervailable benefits because the interest rates charged on the loans were less than what POSCO would have had to pay on a comparable short-term commercial loan.

To calculate the benefit conferred by this program, we compared the actual interest paid on the loans with the amount of interest that would have been paid at the applicable discounted benchmark interest rates. When the interest that would have been paid at the benchmark rate exceeded the interest that was paid at the program interest rate, the difference between those amounts is the benefit. Because neither POSCO nor Dai Yang was able to segregate their production financing applicable to only subject merchandise exported to the United States, we divided the benefits derived from the loans by total exports. On this basis, we preliminarily determine that POSCO received from this program during the POI a countervailable subsidy of less than 0.005 percent *ad valorem*, and that Dai Yang received a countervailable subsidy of 0.04 percent *ad valorem* during the POI.

J. Reserve for Export Loss '' Article 16 of the TERCL

Under Article 16 of the Tax Exemption and Reduction Control Act (TERCL), a domestic person engaged in a foreign-currency earning business can establish a reserve amounting to the lesser of one percent of foreign exchange earnings or 50 percent of net income for the respective tax year. Losses accruing from the cancellation of an export contract, or from the execution of a disadvantageous export contract, may be offset by returning an equivalent amount from the reserve fund to the income account. Any amount that is not used to offset a loss must be returned to the income account and taxed over a

three-year period, after a one-year grace period. All of the money in the reserve is eventually reported as income and subject to corporate tax either when it is used to offset export losses or when the grace period expires and the funds are returned to taxable income. The deferral of taxes owed amounts to an interest-free loan in the amount of the company's tax savings. This program is only available to exporters. During the POI, Dai Yang, Inchon, Samsun, Samsung, Sunkyong, and Daewoo used this program. Although POSCO did not use this program during the POI, its exports of the subject merchandise were shipped through trading companies which did use this program during the POI (Samsun, Samsung, Sunkyong, and Daewoo). Neither Inchon nor Dai Yang shipped through any trading companies that received benefits from this program, although both Inchon and Dai Yang received benefits as exporters.

We preliminarily determine that the Reserve for Export Loss program constitutes an export subsidy under section 771(5A)(B) of the Act because the use of the program is contingent upon export performance. We also preliminarily determine that this program provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act in the form of a loan.

To determine the benefits conferred by this program, we calculated the tax savings by multiplying the balance amounts of the reserves as of December 31, 1996, by the corporate tax rate for 1996. We treated the tax savings on these funds as short-term interest-free loans. Accordingly, to determine the benefits, the amounts of tax savings were multiplied by the companies' weighted-average interest rates for short-term won-denominated commercial loans for the POI, described in the ''Subsidies Valuation Information'' section, above. Using the methodology for calculating subsidies received by trading companies, which also is detailed in the ''Subsidies Valuation Information'' section of this notice, we preliminarily determine a countervailable subsidy of less than 0.005 percent *ad valorem* attributable to POSCO, a subsidy of 0.15 percent *ad valorem* for Inchon, and a countervailable subsidy of 0.01 percent *ad valorem* attributable to Dai Yang.

K. Reserve for Overseas Market Development—Article 17 of the TERCL

Article 17 of the TERCL operates in a manner similar to Article 16, discussed above. This provision allows a domestic person engaged in a foreign trade business to establish a reserve fund equal to one percent of its foreign exchange earnings from its export business for the respective tax year. Expenses incurred in developing overseas markets may be offset by returning from the reserve, to the income account, an amount equivalent to the expense. Any part of the fund that is not placed in the income account for the purpose of offsetting overseas market development expenses must be returned to the income account over a three-year period, after a one-year grace period. As is the case with the Reserve for Export Loss, the balance of this reserve fund is not subject to corporate income tax during the grace period. However, all of the money in the reserve is eventually reported as income and subject to corporate tax either when it offsets export losses or when the grace period expires. The deferral of taxes owed amounts to an interest-free loan equal to the company's tax savings. This program is only available to exporters. The following exporters of the subject merchandise received benefits under this program during the POI: Dai Yang, Hyosung, Hyundai, POSTEEL, Samsun, Samsung, and Sunkyong, and Daewoo. Although Inchon and POSCO did not use this program during the POI, these companies' exports of the subject merchandise were shipped through trading companies which did use this program during the POI: Inchon shipped through Hyundai, and POSCO shipped through Hyosung, POSTEEL, Samsun, Samsung, and Sunkyong, and Daewoo. Dai Yang did not ship through trading companies during the POI.

We preliminarily determine that the Reserve for Overseas Market Development program constitutes an export subsidy under section 771(5A)(B) of the Act because the use of the program is contingent upon export performance. We also preliminarily determine that this program provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act in the form of a loan.

To determine the benefits conferred by this program during the POI, we employed the same methodology used for determining the benefit from the Reserve for Export Loss program. We used as our benchmark interest rate, each company's respective weighted-average interest rate for short-term won-denominated commercial loans for the POI, described in the ''Subsidies Valuation Information'' section above. Using the methodology for calculating subsidies received by trading companies, which also is detailed in the ''Subsidies Valuation Information'' section of this notice, we preliminarily calculate a countervailable subsidy of 0.01 percent *ad valorem* for this program during the POI for POSCO, 0.01 percent *ad valorem* for Inchon, and 0.01 percent *ad valorem* for Dai Yang.

L. Investment Tax Credits

Under the TERCL, companies in Korea are allowed to claim investment tax credits for various kinds of investments. If the tax credits cannot all be used at the time they are claimed, the company is authorized to carry them forward for use in later tax years. During the POI, the respondents used various investment tax credits received under the TERCL to reduce their net tax liability. In *Steel Products from Korea*, we found that investment tax credits were not countervailable (*see* 58 FR at 37351); however, there were changes in the statute effective in 1995 which have caused us to revisit the countervailability of the investment tax credits.

POSCO claimed or used the following tax credits in its fiscal year 1996 income tax return which was filed during the POI: (1) tax credits for investments in facilities for research and experimental use and investments in facilities for vocational training or assets for business to commercialize new technology under Article 10; (2) tax credits for vocational training under Article 18; (3) tax credits for investment in productivity improvement facilities under Article 25; (4) tax credits for investment in specific facilities under Article 26; (5) tax credits for temporary investment under Article 27; and (6) tax credits for specific investments under Article 71 of TERCL. Inchon claimed or used: (1) tax credits for investments in technology and human resources under Article 9; and (2) tax credits for investment in productivity improvement facilities under Article 25. Dai Yang also claimed or used tax credits under Articles 9 and 25.

For these specific tax credits, a company normally calculates its authorized tax credit based upon three or five percent of its investment, *i.e.*, the company receives either a three or five percent tax credit. However, if a company makes the investment in domestically-produced facilities under these Articles, it receives a 10 percent tax credit. Under section 771(5A)(C) of the Act, which became effective on January 1, 1995, a program that is contingent upon the use of domestic goods over imported goods is specific, within the meaning of the Act. Because Korean companies receive a higher tax credit for investments made in domestically-produced facilities, we preliminarily determine that investment tax credits received under Articles 10,

18, 25, 26, 27, and 71 constitute import substitution subsidies under section 771(5A)(C) of the Act. In addition, because the GOK foregoes collecting tax revenue otherwise due under this program, we also preliminarily determine that a financial contribution is provided under section 771(5)(D)(ii) of the Act. Therefore, we preliminarily determine this program to be countervailable.

To calculate the benefit from this tax credit program, we examined the amount of tax credit the companies deducted from their taxes payable for the 1996 fiscal year. In its fiscal year 1996 income tax return filed during the POI, POSCO deducted from its taxes payable, credits earned in the years 1992 through 1995, which were carried forward and used in the POI in addition to POSCO's 1996 deduction. We first determined the amount of the tax credits claimed which were based upon the investment in domestically-produced facilities. We then calculated the additional amount of tax credits received by the company because it earned tax credits of 10 percent on investments in domestically-produced facilities rather than the regular three or five percent tax credit. Next, we calculated the amount of the tax savings earned through the use of these tax credits during the POI and divided that amount by POSCO's total sales for the POI. Neither Inchon nor Dai Yang carried forward any tax credits from previous years. Therefore, to calculate their rates we calculated the additional amount of the tax savings earned on investments in domestically-produced facilities and divided that amount by each company's total sales for the POI. On this basis, we preliminarily determine a countervailable subsidy of 0.27 percent *ad valorem* to POSCO, 0.06 percent *ad valorem* to Inchon, and 0.41 percent *ad valorem* to Dai Yang from this program during the POI.

M. Electricity Discounts Under the Requested Load Adjustment Program

Petitioners alleged that the respondents are being charged utility rates at less than adequate remuneration and, hence, the production of the subject merchandise is receiving countervailable benefits from this subsidy. Petitioners alleged that the respondents are receiving these countervailable benefits in the form of utility rate discounts.

The GOK reports that during the POI the government-owned KEPCO provided the respondents with three types of discounts under its tariff schedule. These three discounts were based on the following rate adjustment programs in KEPCO's tariff schedule: (1) Power Factor Adjustment; (2) Summer Vacation and Repair Adjustment; and (3) Requested Load Adjustment. (See the discussion below in ''Programs Preliminarily Determined To Be Not Countervailable'' with respect to the Power Factor Adjustment and Summer Vacation and Repair Adjustment discount programs.)

With respect to the Requested Load Adjustment (RLA) program, the GOK introduced this discount in 1990, to address emergencies in KEPCO's ability to supply electricity. Under this program, customers with a contract demand of 5,000 KW or more, who can curtail their maximum demand by 20 percent or suppress their maximum demand by 3,000 KW or more, are eligible to enter into a RLA contract with KEPCO. Customers who choose to participate in this program must reduce their load upon KEPCO's request, or pay a surcharge to KEPCO.

Customers can apply for this program between May 1 and May 15 of each year. If KEPCO finds the application in order, KEPCO and the customer enter into a contract with respect to the RLA discount. The RLA discount is provided based upon a contract for two months, normally July and August. Under this program, a basic discount of 440 won per KW is granted between July 1 and August 31, regardless of whether KEPCO makes a request for a customer to reduce its load. During the POI, KEPCO granted 44 companies RLA discounts even though KEPCO did not need to request these companies to reduce their respective loads. The GOK reports that because KEPCO increased its capacity to supply electricity in 1997, it reduced the number of companies with which it maintained RLA contracts in 1997. In 1996, KEPCO entered into RLA contracts with 232 companies.

We analyzed whether this electricity discount program is specific in law (*de jure* specificity), or in fact (*de facto* specificity), within the meaning of sections 771(5A)(D)(i) and (iii) of the Act. First, we examined the eligibility criteria contained in the law. The Regulation on Electricity Supply and KEPCO's Rate Regulations for Electric Service identified companies within a broad range of industries as being eligible to participate in the electricity discount programs. The RLA discount program is available to a wide variety of companies across all industries, provided that they have the required contract demand and can reduce their maximum demand by a certain percentage. We preliminarily find that the RLA electricity program is not *de jure* specific under section 771(5A)(D)(i) of the Act because the regulation does not explicitly limit eligibility of the program.

We next examined data on the distribution of assistance under the RLA to determine whether the electricity discount program meets the criteria for *de facto* specificity under section 771(5A)(D)(iii) of the Act. We found that discounts provided under the RLA were distributed to a limited number of customers, *i.e.*, a total of 44 customers during the POI. Given the data with respect to the small number of companies which received RLA electricity discounts during the POI, we preliminarily determine that the RLA program is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act.

Because the electricity discounts are not ''exceptional'' benefits and are received automatically on a regular and predictable basis without further government approval, we preliminarily determine that these discounts provide a recurring benefit to POSCO and Inchon; Dai Yang did not receive benefits under this program. We have expensed the benefit from this program in the year of receipt. *See GIA*, 58 FR at 37226. To measure the benefit from this program, we summed the electricity discounts which POSCO and Inchon received from KEPCO under the RLA program during the POI. We then divided that amount by each company's total sales value for 1997. On this basis, we preliminarily determine that POSCO and Inchon each received a countervailable subsidy of less than 0.005 percent *ad valorem* from this discount program during the POI.

Given the information the GOK provided on the record regarding KEPCO's increased capacity to supply electricity and the resulting decrease in KEPCO's need to enter into a large number of RLA contracts during the POI, we will further investigate the *de facto* specificity of this discount program at verification. It is the GOK's responsibility to demonstrate to the Department the basis on which KEPCO chose the 44 customers with which it entered into the RLA contracts during the POI.

N. Loans From the National Agricultural Cooperation Federation

According to Dai Yang's September 10, 1998, questionnaire response, the company received a loan administered by the National Agricultural Cooperation Federation (NACF). The loan was given at an interest rate which is below the benchmark interest rate described in the ''Subsidies Valuation'' section of the notice, above. Moreover,

under the terms of this loan, the regional government (that of Ansan City) paid a portion of the interest. Although Dai Yang claims that this program is only available to small- and medium-sized enterprises, the loan approval criteria indicates otherwise. Applications for these loans are evaluated on a point system. The applicant receives 5 out of a possible 100 ''points'' if it is a ''promising small & medium size business.'' However, the most heavily weighed factor in the approval of a loan application is the applicant's ''ratio of exports sales to total sales.'' With the exception of the evaluation item ''enterprise ability,'' which is weighted at 15 points, the export sales factor accounts for twice as many points as any other ranking factor. Under section 771(5A)(B) of the Act, an export subsidy is a subsidy that is, in law or in fact, contingent upon export performance, alone or as one of two or more conditions. After examination of this program, we preliminary determine this program to be a *de facto* export subsidy pursuant to section 771(5A)(B) of the Act. In addition, by paying a portion of the interest on the loan, the actions of the Ansan City government confer a benefit in accordance with section 771(5)(E)(ii) of the Act. Therefore, we preliminarily determine this program to be countervailable.

We preliminarily determine that this loan should be treated as a short-term loan because it is rolled over annually with a revised interest rate. To calculate the benefit conferred under this program, we employed the Department's short-term loan methodology, using as our benchmark the rate described in the ''Subsidies Valuation'' section of the notice, above. We divided the benefit calculated in the POI by Dai Yang's total sales during 1997. On this basis, we preliminarily determine the countervailable subsidy attributable to Dai Yang during the POI to be 0.01 percent *ad valorem*.

O. POSCO's Two-Tiered Pricing Structure to Domestic Customers

In our supplemental questionnaire, we requested information from POSCO and the other respondents regarding an allegation that the GOK mandates that POSCO subsidize local manufacturers by selling them steel at 30 percent below the international market price. In response to this allegation, POSCO stated that no such program exists. However, in its response, POSCO provided information regarding its pricing structure in the domestic and export markets.

POSCO maintains three different pricing systems which serve different markets: domestic prices in Korean won for products that will be consumed in Korea, direct export prices in U.S. dollars or Japanese yen, and local export prices in U.S. dollars. According to POSCO's response, local export prices are provided to those domestic customers who purchase steel for further processing into products that are exported.

POSCO is the only Korean producer of hot-rolled stainless steel coil, which is the main input in the subject merchandise. During the POI, POSCO sold hot-rolled stainless steel coil to domestic producers of subject merchandise, including Dai Yang and Inchon, which used this input to produce exports of the subject merchandise. However, a portion of the domestic demand for this product is met through imports, primarily from Japan. According to its response, POSCO determines its domestic prices for hot-rolled stainless steel coil with reference to the price of imports. Since imports are subject to import duties, POSCO sets its domestic price in Korean won to compete with the duty-inclusive import price. However, for domestic customers, such as Dai Yang and Inchon, purchasing hot-rolled stainless steel coil to be manufactured for export, POSCO sets the local export price at slightly below the duty-exclusive import price because such imports are eligible for duty drawback.

As noted earlier, POSCO is a government-controlled company. POSCO sets different prices for the identical product for domestic purchasers based upon that purchaser's anticipated export performance. Domestic purchasers which use the raw material to produce a product for export are charged a lower price than those domestic purchasers which do not export. Therefore, this pricing scheme is an export subsidy under section 771(5A)(B) of the Act. A financial contribution is also provided under this program under section 771(5)(D)(iii) of the Act.

Under section 771(5)(E)(iv) of the Act, a benefit from the provision of a good or a service is provided when the good is provided for less than adequate remuneration. The adequacy of remuneration is determined in relation to prevailing market conditions for the good being purchased in the country which is subject to the investigation. Prevailing market conditions include price, quantity, availability, marketability, transportation, and other conditions of purchase or sale.

In their supplemental questionnaire responses, Dai Yang and Inchon provided their delivered prices of hot-rolled stainless steel coil used to produce the subject merchandise during the POI. These data included delivered prices of the input sourced from both POSCO and foreign suppliers. To determine the benefit under this program, we compared the prices charged by POSCO for the input to the prices charged by the foreign suppliers. We then divided the amount of the price savings by the value of exports of the subject merchandise during the POI. For the purposes of this preliminary determination, we consider it appropriate to calculate the benefit in this way because POSCO sets its prices to domestic purchasers based upon import prices. Thus, the use of Dai Yang's and Inchon's input prices provide a reasonable basis for determining the difference in POSCO's prices to domestic consumers for domestic consumption and POSCO's prices to domestic producers for export consumption. On this basis, we preliminarily determine that Dai Yang received no benefit from this program, and that Inchon received a countervailable subsidy of 5.51 percent *ad valorem* from this program during the POI.

II. Program Preliminarily Determined To Be Not Countervailable

Electricity Discounts Under Power Factor Adjustment and Summer Vacation and Repair Adjustment Programs

As noted above, the GOK reported that KEPCO provided the respondents with three types of discounts under its tariff schedule during the POI. These three discounts were based on the following rate adjustment programs in KEPCO's tariff schedule: (1) Power Factor Adjustment; (2) Summer Vacation and Repair Adjustment; and (3) Requested Load Adjustment. (See the separate discussion above in regard to the countervailability of the Requested Load Adjustment program.)

With respect to the Power Factor Adjustment (PFA) program, the GOK reports that the goal of the PFA is to improve the energy efficiency of KEPCO's customers which, in turn, provides savings to KEPCO in supplying electricity to its entire customer base. Customers who achieve a higher efficiency than the performance standard (*i.e.*, 90 percent) receive a discount on their base demand charge. Therefore, any customer who installs a proper facility to measure its power factor and achieves a power factor greater than 90 percent receives a discount on its demand charge.

The GOK states that the PFA is not a special program, but a normal factor used in the calculation of a customer's electricity charge which was introduced in 1989. The PFA is available to all general, educational, industrial, agricultural, midnight power, and temporary customers who meet the eligibility criteria. The eligibility criteria are that a customer must: (1) have a contract demand of 6 KW or more, (2) have a power factor that exceeds the 90 percent standard power factor, and (3) have proper facilities to measure its power factor. If these criteria are met, a customer always receives a PFA discount on its monthly electricity invoice. According to the response of the GOK, there are no limitations on the types of customers or industries which can receive the PFA discounts from KEPCO. During the POI there were over 600,000 recipients of the PFA discounts.

With the aim of curtailing KEPCO's summer load by encouraging customer vacations or the repair of their facilities during the summer months, the GOK introduced the Summer Vacation and Repair Adjustment (VRA) in 1985. Under this program, a discount of 550 won per KW is given to customers, if they curtail their maximum demand by more than 50 percent, or 3,000 KW, through a load adjustment or maintenance shutdown of their production facilities during the summer months. Eligible customers apply for a VRA discount during the period June 1 to June 15 of each year. If KEPCO finds the application in order, KEPCO and the customer prepare a contract with respect to the discount.

The GOK states that this discount program is available to all industrial and commercial customers with a contract demand of 500 KW or more. The GOK states that the VRA is one of several programs that KEPCO operates as part of its broad long-term strategy of demand-side management which includes curtailing peak demand, and is the most effective of these programs. The GOK submitted information demonstrating that hundreds of KEPCO customers, from a wide and diverse range of industries, received VRA discounts during the POI.

We analyzed whether these two electricity discount programs are specific in law (*de jure* specificity), or in fact (*de facto* specificity), within the meaning of sections 771(5A)(D)(i) and (iii) of the Act. First, we examined the eligibility criteria contained in the law. The Regulation on Electricity Supply and KEPCO's Rate Regulations for Electric Service identified companies within a broad range of industries as eligible to participate in the electricity discount programs. With respect to the PFA, all general, educational, industrial, agricultural, midnight power, and temporary customers who have the necessary contract demand are eligible to participate in the discount program. Likewise, the VRA discount program is available to a wide variety of companies across all industries, provided that they have the required contract demand and can reduce their maximum demand by a certain percentage. Therefore, we preliminarily determine that the electricity programs are not *de jure* specific under section 771(5A)(D)(i) of the Act.

We then examined data on the distribution of assistance under these programs to determine whether the electricity discount programs meet the criteria for *de facto* specificity under section 771(5A)(D)(iii) of the Act. We found that discounts provided under the PFA and VRA were distributed to a large number of firms in a wide variety of industries. Given the data with respect to the large number of companies and industries which received electricity discounts under these programs during the POI, we preliminarily determine that the PFA and VRA programs are not *de facto* specific under section 771(5A)(D)(iii) of the Act. Therefore, we preliminarily determine that the PFA and VRA discount programs are not countervailable.

III. Programs Preliminarily Determined To Be Not Used

Based on the information provided in the questionnaire response, we preliminarily determine that the companies under investigation either did not apply for or did not receive benefits under the following programs during the POI:

A. Excessive Duty Drawback

Petitioners alleged that under the Korean Customs Act, Korean exporters may have been receiving an excessive abatement, exemption, or refund of import duties payable on raw materials used in the production of exported goods. The Department has found that the drawback on imported raw materials is countervailable when the raw materials are not physically incorporated into the exported item, and therefore, the amount of duty drawback is excessive. In *Steel Products from Korea*, we determined that certain Korean steel producers received excessive duty drawback because they received duty drawback at a rate that exceeded the rate at which imported inputs were actually used. *See* 58 FR at 37349.

The GOK reports that under Article 3 of *The Act on Special Cases concerning the Refundment of Customs Duties, etc. Levied on Raw Materials for Export*, the refund of duties only applies to imported raw materials that are consumed, *i.e.*, physically incorporated, into the finished merchandise. Items used to produce a product, but which do not become physically incorporated into the final product, do not qualify for duty drawback. POSCO is one of the producer/exporters of the subject merchandise to receive duty drawback for inputs consumed in the production of the subject merchandise which was subsequently exported during the POI. The raw materials imported by POSCO to produce the subject merchandise that were eligible for duty drawback are nickel, chrome, and stainless steel scrap. During the POI, Inchon and Dai Yang received duty drawback on imports of hot-rolled stainless steel coils which were consumed in the production of the subject merchandise.

The GOK states that in order to determine the appropriate amount of duty drawback a producer/exporter is eligible to receive, the National Technology Institute (NTI) routinely conducts surveys of producers of exported products to obtain their raw material input usage rate for manufacturing one unit of output. In determining an input usage rate for a raw material, the NTI factors recoverable scrap into the calculation. In addition, the loss rate for each imported input is reflected in the input usage rate. The GOK states that the factoring of reusable scrap into usage rates is done routinely for all products under Korea's duty drawback regime. The NTI maintains a materials list for each product, and only materials and sub-materials that are physically incorporated into the final product are eligible for duty drawback. The NTI then compiles this information into a standard usage rate table which is used to calculate a producer/exporter's duty drawback eligibility. The GOK explains that because POSCO is the primary producer of subject merchandise, the NTI's most recently completed survey (from 1993), consisted of requesting information from POSCO.

The GOK states that there is no difference in the companies' rates of import duty paid and their rates of drawback received. The rates of import duty are based on the imported materials and the rates of drawback depend on the exported merchandise and the usage rate of the imported materials. POSCO, Inchon, and Dai Yang pay import duties based on the rates applicable to the prices of the

imported raw material. They then receive duty drawback based on the amount of that material consumed in the production of the finished product according to the standard input usage rate. Accordingly, the rates at which POSCO, Inchon, and Dai Yang receive duty drawback are the amounts of import duty paid on the amount of input consumed in producing the finished product.

In the current investigation, the GOK and the companies report that POSCO, Inchon, and Dai Yang have not received duty drawback on imported raw materials that were not consumed in the production of exported merchandise. They also state that the applicable duty drawback rates are calculated in a manner which accounts for recoverable scrap. Based on the duty drawback studies provided in the response, the GOK has factored recoverable scrap into the calculation of input usage rates. In *Steel Products from Korea,* we found that when recoverable scrap is factored into the usage rate, the relevant loss and waste rates are not excessive. Based on these factors, we preliminarily determine that POSCO, Inchon, and Dai Yang have not received excessive duty drawback.

B. Tax Incentives for Highly-Advanced Technology Businesses under the Foreign Investment and Foreign Capital Inducement Act.

C. Reserve for Investment under Article 43–5 of TERCL.

D. Export Insurance Rates Provided by the Korean Export Insurance Corporation. 1E. Special Depreciation of Assets on Foreign Exchange Earnings.

IV. Programs Preliminarily Determined Not To Exist

Based on information provided by the GOK, we preliminarily determine that the following program does not exist:

Unlimited Deduction of Overseas Entertainment Expenses

In *Steel Products from Korea,* 58 FR at 37348–49, the Department determined that this program conferred benefits which constituted countervailable subsidies because the entertainment expense deductions were unlimited only for export business activities. In the present investigation, the GOK reported that Article 18–2(5) of the Corporate Tax Law, which provided that Korean exporters could deduct overseas entertainment expenses without any limits, was repealed by the revisions to the law dated December 29, 1995. According to the GOK, beginning with the 1996 fiscal year, a company's domestic and overseas entertainment expenses are deducted within the same aggregate sum limits as set by the GOK. As a result of the revision to the law, overseas entertainment expenses are now treated in the same fashion as domestic expenses in calculating a company's income tax. Therefore, we determine that this program is no longer in existence.

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have calculated individual rates for each of the companies under investigation.

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of stainless steel sheet and strip from the Republic of Korea, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated below. Since the estimated preliminary net countervailing duty rates for POSCO and Dai Yang are *de minimis,* these two companies will be excluded from the suspension of liquidation. This suspension will remain in effect until further notice.

In accordance with section 705(5)(A)(ii) of the Act, the all others rate is the rate calculated for Inchon. We preliminarily determine that the total estimated net countervailable subsidy rates for POSCO and Dai Yang are 0.75 percent *ad valorem* and 0.58 percent *ad valorem,* respectively, which is *de minimis.* Therefore, we preliminarily determine that no countervailable subsidies are being provided to POSCO or Dai Yang for their production or exportation of stainless steel sheet and strip in coils.

COMPANY AD VALOREM RATE

[In Percent]

Producer/Exporter	Net subsidy rate
POSCO	0.75
Inchon	5.77
Dai Yang	0.58
Sammi	29.23
Taihan	10.15
All Others Rate	5.77

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary, Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing is tentatively scheduled to be held 57 days from the date of publication of this preliminary determination, at the U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C. 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Requests for a public hearing should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. An interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

In addition, six copies of the business proprietary version and six copies of the nonproprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the publication of this notice. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the nonproprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 55 days from the publication of this notice.

Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: November 9, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–30737 Filed 11–16–98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–825]

Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Stainless Steel Sheet and Strip in Coils from Italy

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

EFFECTIVE DATE: November 17, 1998.

FOR FURTHER INFORMATION CONTACT: Craig W. Matney, Gregory W. Campbell, or Alysia Wilson, AD/CVD Enforcement, Group I, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1778, 482–2239, or 482–0108, respectively.

Preliminary Determination: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of stainless steel sheet and strip in coils from Italy.

Petitioners

The petition in this investigation was filed by the Allegheny Ludlum Corporation, Armco Inc., J&L Specialty Steel, Inc., Washington Steel Division of Bethlehem Steel Corporation, United Steel Workers of America, AFL–CIO/CLC, Butler Armco Independent Union, and Zanesville Armco Independent Organization, Inc. (collectively referred to hereinafter as the ''petitioners'').

Case History

Since the publication of the notice of initiation in the **Federal Register** (*see Notice of Initiation of Countervailing Duty Investigations: Certain Stainless Steel Sheet and Strip in Coils from France, Italy, and the Republic of Korea*, 63 FR 37539 (July 13, 1998) (*Initiation Notice*)), the following events have occurred. On July 13, 1998, we issued questionnaires to the Government of Italy (GOI), the European Commission (EC), Acciai Speciali Terni S.p.A. (AST), and Arinox S.r.l. (Arinox). On August 6, 1998, we postponed the preliminary determination of this investigation until November 9, 1998 (*see Notice of Postponement of Time Limit for Countervailing Duty Investigations: Stainless Steel Sheet and Strip in Coils from France, Italy, and the Republic of Korea*, 63 FR 43140 (August 12, 1998)).

We received responses to our initial questionnaires from the GOI, the EC, AST, and Arinox between July 29 and September 14. Between September 21 and October 16, 1998, we issued supplemental questionnaires to the GOI, the EC, AST, and Arinox. We received responses to these supplemental questionnaires between October 9 and October 22, 1998.

Scope of Investigation

For purposes of these investigations, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Excluded from the scope of this petition are the following: (1)Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (i.e., flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4)flat wire (i.e., cold-rolled sections, rectangular in shape, of a width of not more than 9.5 mm, and a thickness of not more than 6.35 mm), and (5)razor blade steel. Razor blade steel is a flat rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. See Chapter 72 of the HTSUS, ''Additional U.S. Note'' 1(d).

The Department has determined that certain specialty stainless steel products are also excluded from the scope of these investigations. These excluded products are described below: Flapper valve steel is defined as stainless steel strip in coils with a chemical composition similar to that of AISI 420F grade steel and containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of 185 kgf/mm2, plus or minus 10, yield strength of 150 kgf/mm2, plus or minus 8, and hardness (Hv) of 540, plus or minus 30.

Also excluded is suspension foil, a specialty steel product used, e.g., in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202