July 28, 2015

DOC Inv. Nos. A-570-029, C-570-030, A-351-843, C-351-844, A-533-865, **C-533-866**, A-588-873, A-580-881, C-580-882, A-421-812, A-821-822, C-821-823, A-412-824
USITC Inv. Nos. 701-TA-___-- __, and 731-TA-___ - ___
Total Pages: 2,457
Antidumping and Countervailing Duty Investigations

PUBLIC VERSION
Business Proprietary Information Removed from the attached volumes of the Petitions at: Volume I, pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, and 45, the Exhibit List, and Exhibits I-3, I-4, and I-9 – 1-15;

The Honorable Penny S. Pritzker
Secretary of Commerce
Attention: Enforcement & Compliance
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

Re: Petitions for the Imposition of Antidumping and **Countervailing** Duties: Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, **India**, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom

Dear Secretary Pritzker and Secretary Barton:

On behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics Inc., and United States Steel Corporation (collectively "Petitioners"), we hereby submit to the U.S. Department of Commerce (the "Department") petitions for the imposition of antidumping and countervailing duties on certain cold-rolled steel flat products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom (the "Petitions") pursuant to sections 701, 702(b), 731, and 732(b) of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. §§ 1671, 1671a(b), 1673 and 1673a(b)). Pursuant to the Department's regulations codified at 19 C.F.R. § 351.202(c), we hereby certify that the Petitions and required copies are being filed today with the International Trade Commission (the "Commission").

At the Department, for each of the Petitions, we are filing Volume I (Common Issues and Injury) matched with the corresponding volume that contains the country-specific information on sales at less-than-fair value or the provision of countervailable subsidies. Information pertaining to the allegations of sales at less-than-fair value for the People's Republic of China, Brazil, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom is contained in Volumes II, IV, VI, VIII, IX, XI, XII, and XIV, respectively. Information concerning the countervailable subsidies provided by the People's Republic of China, Brazil, India, the Republic of Korea, and Russia is contained in Volumes III, V, VII, X, and XIII, respectively.

At the Commission, pursuant to instructions from Secretary Barton, we are filing an original and eight copies of: the narrative portion of the business proprietary version of Volume I (Common Issues and Injury); the narrative portion of the business proprietary version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). We are also filing an original and four copies of: the narrative portion of the public version of Volume I (Common Issues and Injury); the narrative portion of the public version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). Finally, we are filing on CD-ROM complete sets of the business proprietary and public versions of the exhibits to all volumes of these Petitions in PDF format compatible with the Commission's EDIS system.

On behalf of Petitioners, we hereby request proprietary treatment for information designated as proprietary in these Petitions pursuant to the Department's regulations codified at 19 C.F.R. §§ 351.202(d) and 351.304 and the Commission's rules codified at 19 C.F.R. § 201.6(b). Business proprietary information is enclosed in single brackets ("[ ]").

The information in Volume I of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

(1) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): Exhibit I-13.

(2) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): Exhibit I-14.

(3) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section)* (19 C.F.R. § 351.105(c)(5)): pages 31-32; and Exhibits I-4, I-12, and I-14.

(4) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)): Exhibit I-9 and I-14.

(5) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): Exhibit I-14.

(6) *The position of a domestic producer or workers regarding a petition* (19 C.F.R. § 351.105(c)(10)): pages 3 and 35.

(7) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, and 45; and Exhibits I-3, I-10 – I-13, and I-15.

The single-bracketed business proprietary information in the attached Volume I of these Petitions identified above is entitled to proprietary treatment in accordance with the Department's regulations codified at 19 C.F.R. § 351.304(a) and the Commission's rules codified at 19 C.F.R. § 201.6(b).[1] Information for which proprietary treatment is requested is not available to the public. Public disclosure of this information would result in serious and substantial harm to the competitive position of the sources of the information and would impair the ability of the Department and the Commission to obtain information necessary to fulfill their statutory functions. The requisite certifications that substantially identical information is not available to the public are set forth as attachments to this letter, in accordance with the Commission's rules codified at 19 C.F.R. § 201.6(b).

Pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(b), Petitioners agree in principle to permit disclosure of the single-bracketed business proprietary information contained in these Petitions under an appropriately drawn administrative protective order ("APO"). Petitioners, however, reserve the right to comment on all APO applications prior to disclosure.

A public version of these Petitions has been prepared and is being filed simultaneously with this submission pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(c)(1) and the Commission's rules codified at 19 C.F.R. § 201.8(f). The public version contains a public summary of the single-bracketed business proprietary information in sufficient detail to permit a reasonable understanding of the contents of these Petitions.

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1 Volumes III, V, VII, X, and XIII of the Petitions contain no business proprietary information.

Should you have any questions regarding these Petitions, please contact the undersigned.

Respectfully submitted,

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Investigation
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PUBLIC DOCUMENT

BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION,
UNITED STATES DEPARTMENT OF COMMERCE AND THE
UNITED STATES INTERNATIONAL TRADE COMMISSION

CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS FROM BRAZIL, CHINA, INDIA, JAPAN, KOREA, NETHERLANDS, RUSSIA, AND THE UNITED KINGDOM

PETITION FOR THE IMPOSITION OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED

VOLUME VII

INFORMATION RELATING TO INDIA – COUNTERVAILING DUTIES

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July 28, 2015

TABLE OF CONTENTS

I. The Department Should Impose Countervailing Duties on CR from India

A. Introduction

As demonstrated below, producers and exporters of certain cold-rolled steel ("CRS") from India are benefitting from countervailable subsidies within the meaning of Section 771(5) of the Tariff Act of 1930, as amended (the "Act").[1] The general information required by Section 351.202 of the regulations of the U.S. Department of Commerce ("Commerce" or the "Department")[2] and Section 207.11 of the regulations of the U.S. International Trade Commission,[3] including the identity of Indian CRS producers and exporters, can be found in Volume I of these Petitions.

Note that the allegations contained in this Petition involve the same subsidy programs included in the countervailing duty petition relating to corrosion-resistant steel ("CORE") from India, filed June 3, 2015, and are similar to (though not the same as) the subsidy programs that the Department has found to exist in the countervailing duty investigations and reviews involving hot-rolled steel ("HRS") from India.[4] That is because many of the same Indian manufacturers make CORE, CRS, and HRS, such as Essar, JSW Ispat, Tata, and SAIL.[5] For the

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1 19 U.S.C. § 1677(5) (2006).

2 19 C.F.R. § 351.202 (2013).

3 *Id.* § 207.11.

4 *See, e.g., Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Countervailing Duty Administrative Review*, 75 Fed. Reg. 43488 (July 20, 2010) ("*Hot-Rolled Steel from India 2008 AR*") and accompanying Issues and Decision Memorandum ("*Hot-Rolled Steel from India 2008 AR IDM*"); *Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Countervailing Duty Administrative Review*, 74 Fed. Reg. 20,943 (May 6, 2009) ("*Hot-Rolled Steel from India 2007 AR*") and accompanying Issues and Decision Memorandum ("*Hot-Rolled Steel from India 2007 AR IDM*").

5 *Compare* Petition Exhibit I-6 (list of producers and exporters benefiting from countervailable CRS subsidies) *with Corrosion-Resistant Carbon Steel Flat Products from India*, Petition,

Department's convenience, we attach two documents from the Department's ongoing investigation of CORE from India: the countervailing duty initiation checklist and the petitioners' response to the Department's deficiency questionnaire. Note that this petition omits an allegation regarding the one program on which the Department did not initiate an investigation in the CORE case, the Andhra Pradesh Industrial Investment Corporation's Provision of Infrastructure.

B. The Government of India and Indian State Governments Provide Numerous Significant Countervailable Subsidies to Indian Producers and Exporters of CRS

In numerous prior countervailing duty proceedings involving a variety of steel products from India, including countervailing duty proceedings involving hot-rolled steel and circular welded pipe from India, the Department has repeatedly found that the Government of India ("GOI") supports the development of its steel industry through numerous and massive subsidies.[6] These include subsidies that are contingent upon export and are therefore prohibited under the agreements of the World Trade Organization ("WTO") to which India is a party.[7]

Vol. I, Exh. I-8 (Producers/Exports of Corrosion-Resistant Steel from India), Exh. VII-44; *Hot-Rolled Steel from India 2008 AR IDM* (HRS subsidies to Tata steel).

6 *See, e.g., Steel Threaded Rod from India*, 79 Fed. Reg. 40,712 (July 14, 2014) ("*Threaded Rod from India*") and accompanying decision memorandum ("*Threaded Rod from India IDM*"); *Circular Welded Carbon-Quality Steel Pipe From India: Final Affirmative Countervailing Duty Determination*, 77 Fed. Reg. 64468 (Oct. 22, 2012) ("*CWP from India*") and accompanying Issues and Decision Memorandum ("*CWP from India IDM* "); *Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Countervailing Duty Administrative Review*, 75 Fed. Reg. 43488 (July 20, 2010) ("*Hot-Rolled Steel from India 2008 AR*") and accompanying Issues and Decision Memorandum ("*Hot-Rolled Steel from India 2008 AR IDM*").

7 *See, e.g.*, Office of the United States Trade Representative, 2014 National Trade Estimate Report on Foreign Trade Barriers: India, Exhibit VII-1.

The GOI, through its Ministry of Steel and other government authorities in India, coordinates and encourages the development of its steel industry, which includes the production of CRS.[8] Through the Ministry of Steel, the GOI has developed a series of National Steel Policies to coordinate government assistance in this area.[9] The National Steel Policy 2005 called for an increase in "indigenous production" of steel from 38 million metric tons ("MT") in 2004 to over 100 million MT by 2019.[10] Following the success of this policy, which resulted in the expansion of steel production to over 87 million MT by the 2013-14 fiscal year,[11] the GOI began preparation of an even more ambitious program. According to the most recent draft of its National Steel Policy 2012, the GOI is putting in place plans to promote the development of additional steel capacity to reach a level of 300 million MT and production of 275 million MT by 2025.[12] A centerpiece of this development plan is an increase in the production of value-added steel products, such as those required by the auto and construction sectors – for example, CRS.[13]

To achieve its goal of more than quadrupling current steel capacity by 2025, the GOI has devised a strategy of ensuring "uninterrupted supply of the steel-making raw materials to the

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8 *See* GOI Ministry of Steel, Major Policies (2012), Exhibit VII-2. This document is also included as Exhibit III-3 to the U.S. industry's countervailing duty petition in the *Oil Country Tubular Goods from India* case, volume III of which is attached hereto in its entirety as Exhibit VII-41.

9 *See id.* and National Steel Policy 2005, Exhibit VII-3; National Steel Policy 2012 (draft), Exhibit VII-4. The GOI is working on a final revised National Steel Policy but has not yet released it.

10 National Steel Policy 2005 at 1, Exhibit VII-3.

11 GOI Ministry of Steel, "An Overview of Steel Sector" (Feb. 16, 2015), Exhibit VII-5.

12 National Steel Policy 2012 at 3, Exhibit VII-4.

13 *Id.*

Indian steel industry over the next few decades" by, *inter alia*, curtailing exports of iron ore, enhancing mining and increasing supply of key inputs (such as coal, coking coal, and limestone) to Indian steel producers.[14] The GOI has also stated that it is providing "infrastructure support" to key Indian steel companies, ensuring "an adequate assured supply of power to the domestic industry," providing adequate water resources and land required by new steel facilities, and supporting the development of indigenous technologies and production techniques.[15] Furthermore, the GOI will continue to encourage the Indian steel industry to "follow an aggressive export strategy to tap the opportunities in the global market fully" and "mitigate the adverse effects of current account deficits."[16]

All of these policies serve to bolster and expand the existing strategy set forth in the National Steel Policy 2005 and the numerous subsidy schemes that the Department has investigated and countervailed in multiple proceedings involving the Indian steel industry. Indeed, the GOI's National Steel Policy 2012 represents a "doubling down" of the GOI's support for its steel industry, including the steel pipe and tube industry. This support is reflected in a host of current subsidy programs. Among the more significant of these are:

- Preferential tax incentives and access to low cost land and energy for companies located in Special Economic Zones;
- Low-cost loans, loan guarantees, and debt forgiveness;
- Provision of raw materials, such as iron ore and coal as well as intermediate inputs such as hot-rolled steel, at below-market prices and free from various duties and taxes that would otherwise be due;

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[14] *Id.* at 7-11.

[15] *Id.* at 12-18.

[16] *Id.* at 20.

- Duty exemption and remission schemes that provide duty-free access to key inputs and other benefits that are far in excess of the duties that would otherwise be levied.

The Department has investigated how these programs have benefitted the India steel industry within the last three years[17] and, indeed, has found that Tata Steel, one of India's largest CRS producers, has benefited from a wide range of subsidy programs.[18]

Like the GOI, Indian state governments have also implemented extensive subsidy programs to support favored steel producers in their states. Many of these subsidies have already been examined and found countervailable by the Department in multiple countervailing duty proceedings involving Indian steel producers. Others have only recently been implemented, as Indian state governments continue to seek to promote local "champions," increase employment, and expand exports from their states. Indeed, it would be far from an exaggeration to say that Indian state governments are engaged in a "race to the bottom" in which they are actively vying with each other to offer the most attractive packages of subsidy incentives to steel producers in their states. These subsidies include:

- Industrial policies that confer a host of subsidies – including free and low-cost land, tax exemptions, waivers of environmental and other regulations, and support for research and development – to selected manufacturers;
- Provision of electricity and other essential inputs on a preferential basis;
- Tax waivers, refunds, and exemptions to select steel producers classified as "mega projects;"
- Industrial development zones, industrial estates, and other designated areas that offer packages of various financial incentives to select companies located therein.

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17 *Threaded Rod from India* (2014); *CWP from India* (2012)

18 *Hot-Rolled Steel from India 2008 AR.*

Each of these subsidy programs, and many others, are discussed in detail in sections II and III, below. In these sections, Petitioners also present the evidence that is reasonably available to them establishing that Indian CRS producers and exporters have derived significant countervailable benefits from these subsidies.

II. Countervailable Subsidies Provided by the Government of India

A. Duty Exemption/Remission Schemes

The GOI has established multiple subsidy programs that Indian companies may use to import inputs required for their export production on a duty free basis.[19] These include: (1) the Advance License Program, (2) the Advance Authorization Program, and (3) the Duty Free Import Authorization Scheme.[20] As discussed below, the Department has determined that each of these duty exemption and remission schemes is countervailable in prior proceedings, including proceedings involving Indian producers and exporters of steel products, including CRS producer Tata.

1. Advance License Program

a. Factual Background

Under the Advance License Program ("ALP") instituted by the GOI, Indian manufacturers may import duty free various inputs for use in the production of goods to be

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19 *See Foreign Trade Policy of the Government of India*, effective June 5, 2012, Notification No. 1 (RE-2012)/2009-2014 ("Foreign Trade Policy") at 53, Exhibit VII-6. A new policy has been issued, covering the period from April 1, 2015 through March 31, 2015, but did not take effect during the POI for this investigation. Government of India Ministry of Commerce and Industry, "Foreign Trade Policy 1st April 2015 – 31st March 2020," available at < http://www.howtoexportimport.com/UserFiles/Windows-Live-Writer/Foreign-Trade-Policy-2015-2020-FTP-2015-_E8B7/Foreign%20Trade%20Policy%202015-20.pdf>.

20 *Id.* A Duty Entitlement Passbook Scheme formerly existed but was terminated for exports from 2011 onwards. *Id.*

exported.[21] To determine the quantity of imports eligible for duty free treatment, the GOI relies on "standard input/output norms" ("SIONs") established by the GOI.[22] As the Department has determined in multiple prior countervailing duty investigations and administrative reviews, subsidies such as the ALP that are based on SIONs lack a reliable system to determine the inputs (and the amount of each) that are consumed in the production of the exported product.[23] Indeed, based on the deficiencies in the SION system, the Department has countervailed the ALP in multiple proceedings, including the recent countervailing duty investigation of circular welded pipe ("CWP") from India and the on-going proceedings involving cut-to-length steel plate and hot-rolled steel from India.[24]

The Department has determined that CRS producer Tata has received a benefit from this program to its hot-rolled operations at a rate of 0.5 percent *ad valorem* based on an adverse facts

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21 *See Circular Welded Carbon-Quality Steel Pipe From India: Final Affirmative Countervailing Duty Determination*, 77 Fed. Reg. 64468 (Oct. 22, 2012) ("*CWP from India*") and accompanying Issues and Decision Memorandum ("*CWP from India IDM* ") at 16; *See also Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results of Countervailing Duty Administrative Review*, 75 Fed. Reg. 43488 (July 20, 2010) ("*Hot-Rolled Steel from India 2008 AR*") and accompanying Issues and Decision Memorandum ("*Hot-Rolled Steel from India 2008 AR IDM*") at 8.

22 *Hot-Rolled Steel from India 2008 AR IDM* at Section II.A.3

23 *PET Film 2009 NSR IDM* at 9.

24 *See e.g. CWP from India IDM* at 16-17; *Certain Lined Paper Products from India: Preliminary Results of Countervailing Duty Administrative Review; Calendar Year 2010*, 77 Fed. Reg. 61742 (October 11, 2012) ("*Lined Paper 2010 AR*") and accompanying Issues and Decision Memorandum ("*Lined Paper 2010 AR IDM*") at 11; *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty New Shipper Review*, 76 Fed. Reg. 30910 (May 27, 2011) ("*PET Film 2009 NSR*") and accompanying Issues and Decision Memorandum ("*PET Film 2009 NSR IDM*") at 6-10; *Certain Cut-to-Length Carbon-Quality Steel Plate From India, Indonesia, Italy, and the Republic of Korea: Final Results of Expedited Sunset Review*, 76 Fed. Reg. 12702 (March 8, 2011) ("*Steel Plate ESR*") and accompanying Issues and Decision Memorandum ("*Steel Plate ESR IDM*") at 2; *Hot-Rolled Steel from India 2008 AR IDM* at 7.

available (AFA) methodology.[25] All Indian CRS exporters would be eligible for this program. In the 2010 administrative review of the countervailing duty order on lined paper products from India, the GOI claimed that the ALP had been terminated and replaced by a new subsidy program, the Advance Authorization Program ("AAP") (discussed in the following section, below).[26] However, the GOI failed to provide the information necessary for the Department to determine that the ALP had, in fact, been terminated. Accordingly, notwithstanding the GOI's claims, the Department has continued to investigate the ALP.[27]

b. The Subsidy Is Countervailable

i. Financial Contribution

The ALP subsidy provides a financial contribution as defined under Section 771(5)(D)(ii) of the Act because, under the ALP, recipients pay less in import duties than would otherwise be due.[28]

ii. Benefit

The ALP subsidy provides a benefit in the amount of the import duty deferral or exemption under Section 771(5)(E) of the Act.[29] Moreover, the Department's regulations require it to find the entire amount of the exemption countervailable, as the GOI does not have "a reliable monitoring system in place to determine which inputs, and in which amounts, are

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25 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.3.

26 *Lined Paper 2010 AR IDM* at 11.

27 *Id.*

28 *CWP from India IDM* at 16.

29 *PET Film 2009 NSR IDM* at 9.

consumed in the production of the exported product," as required under 19 C.F.R. § 351.519(a)(4).[30]

iii. Specificity

As the Department has repeatedly found, the ALP subsidy is specific under Section 771(5A)(B) of the Act because it is contingent upon export.[31]

2. Advance Authorization Program

a. Factual Background

Like the ALP, the AAP provides exemptions from import duties for various input products used in the production of goods for export from India. According to the GOI's *Foreign Trade Policy*,

> An Advance Authorization is issued to allow duty free import of inputs, which are physically incorporated in export product (making normal allowance for wastage). In addition, fuel, oil, energy, catalysts which are consumed/utilised to obtain export product, may also be allowed.[32]

The Department has previously found that the AAP – which like the ALP discussed above is based on the SION system – provides countervailable subsidies to exporters in India in the full amount of the import duties exempted under the program.[33] All Indian CRS exporters are eligible.

b. The Subsidy Is Countervailable

i. Financial Contribution

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30 *PET Film 2009 NSR IDM* at 9.

31 *CWP from India IDM* at 16.

32 *Foreign Trade Policy* at 54, Exhibit VII-6.

33 Id. *Lined Paper 2010 AR IDM* at 11.

The AAP provides a financial contribution as defined in Section 771(5)(D)(ii) of the Act because it exempts the recipients from the payment of import duties that would otherwise be due.[34]

ii. Benefit

For eligible recipients, the AAP defers or exempts payment of import duties on inputs that are physically incorporated in an export product, a type of subsidy that has been found to confer a benefit under Section 771(5)(E) of the Act.[35] Moreover, the Department should find the entire amount of the exemption or deferral countervailable because the SION system does not constitute "a reliable monitoring system . . . to determine which inputs, and in which amounts, are consumed in the production of the exported product," as required under 19 C.F.R. § 351.519(a)(4).[36]

iii. Specificity

The AAP is specific under Section 771(5A)(B) of the Act because it is contingent upon export.[37]

3. Duty Free Import Authorization Scheme

a. Factual Background

In effect since May 1, 2006, the Duty Free Import Authorization Scheme ("DFIA Scheme") has allowed "duty free import of inputs, fuel, oil, energy sources, {and} catalyst{s}

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34 *Lined Paper 2010 AR IDM* at 11.

35 *PET Film 2009 NSR IDM* at 9.

36 *PET Film 2009 NSR IDM* at 9.

37 *Id.*

which are required for the production of export product."[38] As with the subsidy programs discussed above, the amount of duties exempted is determined based upon the GOI's SION system.[39] In previous proceedings, the Department determined that the DFIA Scheme is countervailable and has been used by companies in the Indian steel industry.[40] All Indian CRS exporters would be eligible.

b. The Subsidy Is Countervailable

i. Financial Contribution

The Department has determined that the DFIA Scheme provides a financial contribution under Section 771(5)(D)(ii) of the Act because the GOI exempts eligible recipients from the payment of import duties that would otherwise be due.[41]

ii. Benefit

The DFIA Scheme provides a benefit in the amount of the import duty deferral or exemption under Section 771(5)(E) of the Act. Moreover, as it has done in prior proceedings, the Department should find that the entire amount of the exemption or deferral granted under the DFIA Scheme is countervailable because the SION system on which it is based does not constitute "a reliable monitoring system . . . to determine which inputs, and in which amounts, are consumed in the production of the exported product."[42]

iii. Specificity

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38 *Foreign Trade Policy* at 59, Exhibit VII-6.

39 *Foreign Trade Policy* at 59, Exhibit VII-6.

40 *See, e.g., CWP from India IDM* at 17.

41 *CWP from India IDM* at 17.

42 *PET Film 2009 NSR IDM* at 9.

The DFIA Scheme is specific under Section 771(5A)(B) of the Act because it is contingent upon export.[43]

4. Duty Drawback

a. Factual background

In the Department's recent investigation of steel threaded rod from India, the Department discovered the existence of another export duty related subsidy program, the duty drawback ("DDB") program.[44] According to the GOI, the DDB provides rebates of any duties or charges on any imported materials or input services used in the manufacture of exported goods.[45]

b. The subsidy is countervailable

Import duty exemptions are not countervailable so long as they encompass only to inputs consumed in the production of exported products, making allowance for waste, provided the government in question has a reasonable and effective system for confirming which inputs are consumed in the production of the exported products, and in what amounts.[46] The Department has found that the DDB does not meet these criteria and is countervailable.[47]

i. Financial contribution

The Department has determined that the DFIA Scheme provides a financial contribution

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43 *Lined Paper 2010 AR IDM* at 11.

44 *Steel Threaded Rod from India*, 79 Fed. Reg. 40,712 (July 14, 2014) ("*Threaded Rod from India*") and accompanying decision memorandum, at 12 ("*Threaded Rod from India IDM*").

45 *Id.*

46 *Certain Frozen Warmwater Shrimp from India*, 78 Fed. Reg. 50,385 (Aug. 19, 2013) (final CVD determ.) ("*Warmwater Shrimp from India*"), and accompanying issues and decision memorandum, at "Duty Drawback" ("*Warmwater Shrimp from India IDM*").

47 *Steel Threaded Rod from India IDM* at 12-13, *Warmwater Shrimp from India IDM* at "Duty Drawback."

under Section 771(5)(D)(ii) of the Act because the GOI exempts eligible recipients from the payment of import duties that would otherwise be due.[48]

ii. Benefit

The DFIA Scheme provides a benefit in the amount of the import duty deferral or exemption under Section 771(5)(E) of the Act. Moreover, as it has done in prior proceedings, the Department should find that the entire amount of the exemption granted under the DDB is countervailable pursuant to 19 C.F.R. § 351.519(a)(4).[49]

iii. Specificity

The DDB Scheme is specific under Section 771(5A)(B) of the Act because it is contingent upon export.

B. Subsidies for "Export Oriented Units"

The GOI provides a number of separate subsidies that are contingent upon export to Indian CRS producers and exporters under the umbrella of the Export Oriented Units scheme. According to the GOI's *Foreign Trade Policy*, "Export Oriented Units" ("EOUs") that export their entire production of goods and services are entitled to exemptions and reimbursements for duties and taxes on profits, materials, supplies, goods, and services.[50] In prior countervailing duty proceedings, the Department has investigated and found countervailable the following subsidies provided under the EOU scheme:

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48 *Id.*

49 *Id.*

50 *Foreign Trade Policy* (w.e.p. 05.06.12) at 81. The subsidies provided under the EOU scheme are complementary to the Special Economic Zone Act subsidies discussed below. Export Promotion Council for EOUs & SEZs Website, www.eouindia.gov.in/eou_scheme.htm, Exhibit VII-6.

1. Duty-Free Importation of Capital Goods and Raw Materials;
2. Reimbursements of Central Sales Tax Paid on Goods Manufactured in India;
3. Duty Drawback on Fuel Procured from Domestic Oil Companies;
4. Exceptions from Payment of Central Excise Duty on Goods Manufactured in India and Procured from a Domestic Tariff Area.[51]

The Department has already found that CRS producer benefited from the first two of these programs, and all Indian CRS manufacturers that export would be eligible to create such a unit.[52] As of March 2011, there were 2,446 operating EOUs in India.[53] Thus, Indian CRS producers and exporters that are operating EOUs are entitled to the following separate subsidies:

1. Duty-Free Import Of Goods, Including Capital Goods and Raw Materials

a. Factual Background

The exemptions from import duties provided to EOUs have been found by the Department to be countervailable in prior proceedings.[54] Pursuant to these exemptions, an EOU

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51 *CWP from India IDM* at 12-15; *PET film 2007 AR IDM* at 12-15.

52 *Hot-Rolled Steel from India 2008 AR IDM*, at II.A.10 and II.A.11.

53 Government of India, Department of Commerce, Special Economic Zones (Sezs) and Export Oriented Units (Eous), *Annual Report 2011-2012*, attached as Exhibit III-17 to *Certain Oil Country Tubular Goods from India*, Petition for the Imposition of Antidumping and Countervailing Duties, Volume III (July 2, 2013), Exhibit VII-41.

54 *CWP from India IDM* at 12, *PET 2007 AR IDM* at 12.

is allowed to import all types of goods for its activities, including capital goods and raw materials, on a duty free basis.[55] Like the other duty exemption and remission schemes discussed above, this subsidy is linked to the GOI's SION system. The Department has found that CRS producer Tata has benefited from this scheme.[56]

b. The Subsidy Is Countervailable

i. Financial Contribution

This program provides a financial contribution under Section 771(5)(D)(ii) of the Act in the form of revenue foregone on imports.[57]

ii. Benefit

The Department has previously determined that this program provides a benefit within the meaning of Section 771(5)(E) of the Act equal to the amount of customs duties exempted on the imported goods.[58] The Department has also determined that, with regard to raw materials, the entire amount of import duties exempted is countervailable because the GOI's SION system does not provide a reasonable and effective mechanism to confirm the inputs that are consumed in the production of exported products and the amount of each such input.[59]

iii. Specificity

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55 *CWP from India IDM* at 12.

56 *Hot-Rolled Steel from India 2008 AR IDM*, at II.A.10.

57 *CWP from India IDM* at 12.

58 *PET 2007 AR IDM* at 12.

59 *PET 2007 AR IDM* at 12.

This program is specific within the meaning of Section 771(5A)(B) of the Act because it is contingent upon export.[60]

2. Reimbursements Of Central Sales Tax Paid On Goods Manufactured In India

a. Factual Background

EOUs are reimbursed for Central Sales Tax ("CST") paid on goods manufactured domestically, including CST paid on domestically procured raw materials and capital goods.[61] EOUs are also "entitled to full reimbursement of {CST} paid by them on purchases made from a domestic tariff area ("DTA") for production of goods and services per Exim Policy."[62] The Department has found these reimbursements to be countervailable in multiple proceedings.[63] The Department has found that CRS producer Tata has benefited from this scheme.[64]

b. The Subsidy Is Countervailable

i. Financial Contribution

The Department has previously determined that this program provides a financial contribution under Section 771(5)(D)(ii) of the Act in the form of revenue foregone.[65]

ii. Benefit

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60 *CWP from India IDM* at 12.

61 *PET Film 2007 AR* at 13.

62 *CWP from India IDM* at 13.

63 *PET Film 2007 AR* at 13; *CWP from India IDM* at 13; *Hot-Rolled Steel from India 2008 AR IDM* at 9-10 (involving Tata Steel Ltd.)

64 *Hot-Rolled Steel from India 2008 AR IDM*, at II.A.11.

65 *CWP from India IDM* at 13.

This program provides a benefit under Section 771(5)(E) of the Act equal to the amount of the reimbursements of CST.[66]

iii. Specificity

This program is specific under Section 771(5A)(B) of the Act because it is contingent upon export.[67]

3. Duty Drawback On Fuel Procured From Domestic Oil Companies

a. Factual Background

This subsidy entitles EOUs to "Reimbursement of duty paid on fuel procured from domestic oil companies... as per drawback rate notified by" the GOI's Directorate General of Foreign Trade ("DGFT").[68] Reimbursement of additional taxes and excise duty levied on fuel under the Finance Acts is also permitted.[69] This drawback scheme on fuel is only open to EOUs.[70] The Department has previously determined that this subsidy is countervailable, and has been received by companies in the steel products industry.[71]

b. The Subsidy Is Countervailable

i. Financial Contribution

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[66] *PET Film 2007 AR* at 13.

[67] *CWP from India IDM* at 13.

[68] *Foreign Trade Policy* (w.e.p. 05/06/12) at 92.

[69] *Foreign Trade Policy* (w.e.p. 05/06/12) at 92.

[70] *PET Film 2007 AR* at 14.

[71] *PET Film 2007 AR* at 13; *CWP from India IDM* at 13.

The Department has found this program to provide a financial contribution in the form of revenue foregone under Section 771(5)(D)(ii) of the Act.[72]

ii. Benefit

In a prior proceeding, the Department determined that the reimbursement of duties and taxes under this program provided a benefit as defined by Section 771(5)(E) of the Act in the entire amount of the reimbursement claimed, as the GOI does not have in place a system to confirm the amount of fuel consumed in the production of exports for purposes of claiming duty drawback.[73]

iii. Specificity

This program is contingent upon export and is, therefore, specific within the meaning of Section 771(5A)(B) of the Act.[74]

4. Exemption From Payment Of Central Excise Duty On Goods Manufactured In India And Procured From A DTA

a. Factual Background

EOUs are exempted from the payment of Central Excise Duty ("CED") on goods manufactured in India and goods procured from a DTA.[75] Multiple inputs that are used in the

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72 *CWP from India IDM* at 13.

73 *PET Film 2007 AR IDM* at 14.

74 *CWP from India IDM* at 13-14.

75 *Foreign Trade Policy* (w.e.f. 05/06/12) at 91.

production of CRS are eligible for this exemption under the CED tariff schedule, including mineral products, chemical products, and base metals.[76] The CED rate is normally 16 percent *ad valorem*.[77] Accordingly, exemption from the payment of CED would represent a sizable subsidy for CRS producers and exporters.

b. **The Subsidy Is Countervailable**

i. **Financial Contribution**

The Department has previously determined that the exemption from the payment of CED provides a financial contribution within the meaning of Section 771(5)(D)(ii) of the Act in the form of revenue foregone.[78]

ii. **Benefit**

The exemption from the payment of CED provides a benefit within the meaning of Section 771(5)(E) of the Act in the amount of the exempted duties – normally 16 percent *ad valorem*.

iii. **Specificity**

The exemption from CED is specific under Section 771(5A)(B) of the Act because it is contingent upon export.[79]

C. **Export Promotion Of Capital Goods Scheme**

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[76] Central Board of Excise and Customs, *Central Excise Tariff 2012-2013*, Exhibit VII-7.

[77] *CWP from India* at 14.

[78] *CWP from India IDM* at 15.

[79] *CWP from India IDM* at 15.

1. Factual Background

The Department has determined in multiple proceedings that the GOI's Export Promotion of Capital Goods Scheme ("EPCGS") provides countervailable subsidies to Indian steel producers, including CRS producer Tata.[80] The EPCGS provides reductions or exemptions on customs duties and excise taxes for imports of capital goods.[81] According to Chapter 5 of the GOI's *Foreign Trade Policy*, there are two preferential import duty programs for exporters available under the EPCGS. The first of these is known as the "zero duty EPCGS" which

> allows import of capital goods for preproduction, production and post production... at zero Customs duty, subject to an export obligation equivalent to 6 times of duty saved on capital goods imported under EPCG scheme, to be fulfilled in 6 years reckoned from Authorization issue-date.[82]

Exporters who are ineligible for the zero duty EPCGS may apply for a concessional 3 percent EPCGS. This scheme allows importers of capital goods to pay a reduced 3 percent Basic Customs Duty ("BCD"), subject to an export obligation equivalent to 8 times the duty saved on capital goods imported under the scheme, "i.e. {the} difference between duty payable and 3% BCD," to be fulfilled in 8 years from the authorization issue-date.[83] In the event that the exporter fails to meet these export obligations, the exporter is subject to payment for part or all of the duty reduction plus penalty interest.[84]

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80 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.2; *Lined Paper ESR IDM* at Nature of the Subsidy, 5 EPCGS; *CWP from India IDM* at 16.

81 *Lined Paper ESR IDM* at Nature of the Subsidy, 5 EPCGS.

82 *Foreign Trade Policy* (w.e.f. 05.06.12) at 71, attached as Exhibit III-7 to *Certain Oil Country Tubular Goods from India*, Petition for the Imposition of Antidumping and Countervailing Duties, Volume III (July 2, 2013), Exhibit VII-41.

83 *Id.* at 72-73.

84 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.2.

2. The Subsidy Is Countervailable

a. Financial Contribution

The Department has found that the EPCGS provides a financial contribution within the meaning of Section 771(5)(D)(ii) in the form of revenue foregone.[85]

b. Benefit

The Department has previously determined that the EPCGS provides at least two benefits within the meaning of Section 771(5)(E) of the Act.[86] First, the conditional waiver of duties on imports of capital equipment for which a recipient has not yet met the scheme's export requirements constitutes a contingent liability interest-free loan, within the meaning of 19 C.F.R. § 351.505(d)(1).[87] Second, the waiver of duties when the export requirement has been met constitutes a grant under 19 C.F.R. § 351.505(d)(2).[88]

c. Specificity

As the "duty reduction is subject to an export obligation," the EPCGS is specific within the meaning of Section 771(5A)(B) of the Act.[89]

D. Pre-Shipment And Post-Shipment Export Financing

85 *CWP from India IDM* at 16.

86 *PET Film 2009 NSR* at 10.

87 *PET Film 2009 NSR* at 10; *see also Hot-Rolled Steel from India 2007 AR IDM* at IV.A.2.

88 *PET Film 2009 NSR* at 10; *see also Hot-Rolled Steel from India 2007 AR IDM* at IV.A.2.

89 *CWP from India IDM* at 16.

1. Factual Background

The Reserve Bank of India ("RBI") provides short-term, pre-shipment financing known as "packing credits" to exporters through commercial banks.[90] Such financing provides working capital to produce and ship goods for export.[91] Producers and exporters may also establish pre-shipment credit lines, which they may draw upon as needed.[92] Credit lines can either be in Indian rupees or a foreign currency, and interest rates are charged at rates determined by the RBI.[93]

Post-shipment export financing consists of loans in the form of discounted trade bills or advances by commercial banks, and can be made in either Indian Rupees or a foreign currency.[94] Post-shipment loans "cover the period from the date of shipment of the goods to the date of realization of the proceeds from the sale to the overseas customer," and are granted for a period not to exceed 180 days.[95] "Post-shipment financing is, therefore, a working capital program used to finance export receivables."[96] The Department has found both the pre-shipment and post-shipment export financing programs to constitute countervailable subsidies in multiple prior proceedings.[97]

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90 *PET Film 2009 NSR IDM* at 5.

91 *Id.*

92 *Id.*

93 *Id.*

94 *Id.*

95 *Id.*

96 *Id.*

97 *CWP from India IDM* at 18, *Lined Paper 2010 AR Prelim IDM* at 4, *PET Film 2009 NSR IDM* at 5-6, *Hot-Rolled Steel from India 2008 AR IDM* at II.A.1

As the Department has found, interest rates controlled by the RBI are lower than the rates exporters would pay on comparable commercial loans.[98] The Department has already found that CRS producer Tata has benefited from this program.[99] The Department has determined in other proceedings that Indian producers and exporters of steel products are heavy users of the pre and post shipment export financing program.[100]

2. The Subsidy Is Countervailable

a. Financial Contribution

The Department has previously determined that the provision of pre- and post-shipment export financing constitutes a financial contribution within the meaning of Section 771(5)(D)(i) of the Act as a direct transfer of funds in the form of loans.[101]

b. Benefit

The Department has found that the provision of pre and post shipment export financing confers a benefit within the meaning of Section 771(5)(E)(ii) of the Act to the extent that the interest rates charged on the loans are lower than interest rates for comparable commercial loans.[102] As discussed above, the interest rates for the pre and post shipment export financing loans are held below prevailing commercial interest rates by law.

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98 *Lined Paper 2010 AR Prelim IDM* at 4.

99 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.1.

100 *See, e.g., CWP from India IDM* at 18.

101 *PET Film 2009 NSR IDM* at 5-6.

102 *Id.*

c. **Specificity**

This program is contingent upon export and, therefore, is specific within the meaning of Section 771(5A)(B) of the Act.[103]

E. **Market Development Assistance Scheme**

1. **Factual Background**

The GOI's Market Development Assistance Scheme ("MDA Scheme") provides grants-in-aid to companies through approved organizations, such as trading houses and Export Promotion Councils ("EPCs"), to promote the development of export markets for Indian goods.[104] All Indian exporters are eligible for assistance under the MDA Scheme.[105] As the Department has previously found, these grants constitute countervailable export subsidies.[106]

To obtain a grant under the MDA Scheme, an exporter applies to an EPC. The EPC then dispenses funds provided by the GOI's Ministry of Commerce to the exporter.[107] The Department has already found that Indian CRS producer and exporter Tata has benefited from the MDA Scheme.[108]

2. **The Subsidy Is Countervailable**

a. **Financial Contribution**

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103 *CWP from India IDM* at 18.

104 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.13, *Lined Paper 2010 AR Prelim IDM* at 7.

105 *CWP from India* at 19.

106 *CWP from India IDM* at 19, *Hot-Rolled Steel from India 2008 AR IDM* at II.A.13

107 MDA Guidelines at 2.iii

108 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.13.

The Department has determined that the MDA Scheme provides a financial contribution within the meaning of Section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.[109]

b. Benefit

The Department has previously found that the MDA Scheme confers a benefit within the meaning of Section 771(5)(E) of the Act and 19 C.F.R. § 351.504(a) in the amount of the grant.[110]

c. Specificity

The MDA Scheme is limited to exporters and is, therefore, specific within the meaning of Section 771(5A)(B) of the Act.[111]

F. Market Access Initiative

1. Factual Background

The *Foreign Trade Policy* of India states that the Market Access Initiative ("MAI") provides funding for:

> export promotion activities on {a} focus country, focus product basis. Financial assistance is available for Export Promotion Councils (EPCs), Industry and Trade Associations (ITAs), Agencies of State Government,

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109 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.13

110 *Id.*

111 *CWP from India IDM* at 19.

> Indian Commercial Missions (ICMs) abroad and other national level institutions/eligible entities as may be notified.[112]

Through the MAI, the GOI funds multiple activities, including market studies, sales promotion campaigns, and publicity campaigns.[113]

The Department has determined the MAI to be countervailable in multiple proceedings.[114] Specifically, in prior proceedings, the Department has found that the MAI "provides financial assistance from the GOI to approved organizations which promote exports by offsetting the expense of foreign market analysis and promotional publications."[115] The Department has already found that CRS producer Tata and other companies in the Indian steel industry have received subsidies under the MAI.[116]

2. The Subsidy Is Countervailable

a. Financial Contribution

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[112] *Foreign Trade Policy* (w.e.f. 05/06/12) at 36.

[113] *Lined Paper 2010 AR Prelim IDM* at 8.

[114] *Lined Paper 2010 AR Prelim IDM* at 7, *CWP from India IDM* at 19, *Hot-Rolled Steel from India 2008 AR IDM* at II.A.14.

[115] *Lined Paper 2010 AR Prelim IDM* at 8.

[116] *CWP from India IDM* at 19, *Hot-Rolled Steel from India 2008 AR IDM* at II.A.14.

The Department has previously determined that the MAI subsidies provide a financial contribution within the meaning of Section 771(5)(D)(i) in the form of a direct transfer of funds.[117]

b. Benefit

The Department has found that the MAI subsidies confer a benefit within the meaning of Section 771(5)(E) of the Act and 19 C.F.R. § 351.504(a) in the amount of the grant.[118]

c. Specificity

The MAI subsidies are specific within the meaning of Section 771(5A)(B) of the Act as they are contingent upon export.[119]

G. Focus Product Scheme

1. Factual Background

According to the GOI's *Foreign Trade Policy*, the objective of the Focus Product Scheme ("FPS") is to promote the "export of products which have high export intensity / employment potential, so as to offset infrastructural inefficiencies and other associated costs involved in marketing these products."[120] The FPS is an export incentive scheme that entitles exporters of specific products to receive a "Duty Credit Scrip" payout from the GOI "equivalent to 2% or 5% of FOB value of exports (in free foreign exchange)."[121]

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117 *Lined Paper 2010 AR IDM* at 8.

118 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.14.

119 *CWP from India IDM* at 19.

120 *Foreign Trade Policy* (w.e.p. 05/06/12) at 47, Exh. VII-6.

121 *Id.*

The Department has found that participants in the Indian steel industry have benefited from this subsidy program,[122] and as exporters Indian CRS producers would be eligible. Indeed, CRS producer Tata Steel reports having received "export incentive under various schemed notified by the Government,"[123] which may include this export subsidy program.

2. The Subsidy Is Countervailable

a. Financial Contribution

The FPS provides a financial contribution within the meaning of Section 771(5)(D)(ii) of the Act in the form of revenue foregone because the "Duty Credit Scrip" effectively reimburses or offsets duties that would otherwise have been due.[124]

b. Benefit

The FPS provides a benefit within the meaning of Section 771(5)(E) of the Act equal to the value of the "Duty Credit Scrip" obtained under the program and any associated duty benefits.

c. Specificity

The FPS is specific within the meaning of Section 771(5A)(B) of the Act because it is contingent upon export.

H. Government Of India Loan Guarantees

1. Factual Background

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[122] *Threaded Rod from India IDM* at 16-17.

[123] Tata Steel annual report 2013-14, at 144, Exhibit VII-8.

[124] *Threaded Rod from India IDM* at 16.

Through the State Bank of India ("SBI"), the GOI provides loan guarantees on a case-by-case basis to specific industrial sectors.[125] The Department has previously determined that these loan guarantees are countervailable and that Indian steel producers, including producers of CRS, are among the enterprises and industries specifically eligible for the loan guarantees.[126]

2. The Subsidy Is Countervailable

a. Financial Contribution

The GOI loan guarantees constitute a financial contribution within the meaning of Section 771(5)(D)(i) of the Act in the form of a potential direct transfer of funds or liabilities.[127]

b. Benefit

The Department has previously determined that the GOI loan guarantees provide a benefit within the meaning of Section 771(5)(E)(iii) of the Act to the extent that the amount the firm paid on the guaranteed loan is less than the amount the firm would pay for a comparable loan if there were no government guarantee.[128]

c. Specificity

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[125] *Hot-Rolled Steel from India 2008 AR IDM* at II.A.6.

[126] *Hot-Rolled Steel from India 2008 AR IDM* at II.A.6 and *CWP from India IDM* at 20.

[127] *Hot-Rolled Steel from India 2008 AR IDM* at II.A.6.

[128] *Id.*

The GOI loan guarantees are specific within the meaning of Section 771(5A)(D)(iii)(I) of the Act as they are limited to certain companies in specific industries selected by the GOI, including companies in the CRS industry, on an *ad hoc* basis.[129]

I. Status Certificate Program

1. Factual Background

In *CWP from India*, the Department found that the object of the GOI's Status Certificate Program "is to recognize established exporters . . . with a view to building marketing infrastructure and expertise required for export promotion" through financial assistance "determined solely by established criteria found in the law, regulation, or other official document."[130] Companies are eligible for the Status Certificate Program based on their export performance, as measured by the F.O.B. value of their exports over a four year period.[131] Depending on its level of exports, a company will be classified as an Export House, Star Export House, Trading House, Star Trading House, or Premier Trading House.[132]

Qualifying companies become eligible to receive:

- Exemptions from compulsory negotiation of documents through banks;
- 100 percent retention of foreign exchange in an Exchange Earner's Foreign Currency account;
- Enhancement in the normal repatriation period for foreign exchange from 180 to 360 days;
- Exemption from furnishing of {bank guarantees} in Schemes

[129] *Lined Paper 2010 AR IDM* at 4.

[130] *CWP from India IDM* at 20.

[131] *Foreign Trade Policy 2009* at 33, Exhibit VII-6.

[132] *Id.*

under {the *Foreign Trade Policy*}.[133]

The evidence reasonably available to Petitioners shows that Indian CRS producers and exporters have received these benefits under the Status Certificate Program. Indeed, the Status Certificate Program has been found to be countervailable in several prior proceedings, including proceedings involving the Indian steel industry and CRS producer Tata.[134]

2. The Subsidy Is Countervailable

a. Financial Contribution

The Department has found that the Status Certificate Program provides a financial contribution within the meaning of Section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.[135]

b. Benefit

The Department has previously determined that the Status Certificate Program confers a benefit within the meaning of Section 771(5)(E) of the Act in the amount of the value of the exemptions from various financing requirements, mandatory bank guarantees, and foreign exchange repatriation requirements as well as other preferences provided by the GOI.[136]

c. Specificity

The Department has found the Status Certificate Program to be specific within the meaning of Section 771(5A)(B) of the Act because it is contingent upon export.[137]

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133 *Foreign Trade Policy 2009* at 34, Exhibit VII-6; *Lined Paper 2010 AR IDM* at 9-10.

134 *CWP from India IDM* at 20; *Hot-Rolled Steel from India 2008 AR IDM* at Section II.A.5.

135 *CWP from India* at 20.

136 *Id.* at 21.

137 *CWP from India IDM* at 20.

J. Income Deduction Program ("80-IB Tax Program")

1. Factual Background

Under the Income Tax Act of 1961, as amended by the Finance Act, 2007, Chapter VIA, 80-IB(4), the GOI established the 80-IB Tax Program to increase economic development in poorly performing regions listed in the Eighth Schedule of the Indian Tax Code.[138] Specifically, the 80-IB Tax Program allows Indian companies who have "industrial undertakings" in "industrially backward" regions to reduce their tax burden by up to 100 percent of the profits earned from those production facilities for the first five years, and then by 30 percent for the next five years.[139] A company applies for the 80-IB Tax Program as part of its tax returns at the end of a fiscal year, and the resulting tax benefit is applied to the total gross income of the company.[140] The Department recently investigated the 80-IB Tax Program in *Lined Paper 2010 AR* and found it to be countervailable.[141]

There is a reasonable basis to believe or suspect that Indian CRS producers and exporters have benefited from the tax subsidies provided under the GOI's 80-IB Tax Program. CRS producer SAIL (Steel Authority of India Ltd.), for example, reports that it operates steel plants and mines in economically backward regions of the country.[142] While Petitioners do not know if other steel companies do the same, 16 Indian states and territories contain regions designated as "industrially backward," so it is likely that at least some CRS production facilities are located

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138 *Lined Paper 2010 AR IDM* at 9.

139 Indian Tax Law 80-IB(4), ; *Lined Paper 2010 AR IDM* at 9.

140 *Lined Paper 2010 AR IDM* at 9.

141 *Lined Paper 2010 AR IDM* at 9.

142 SAIL Annual Report 2011-12, Exhibit VII-9.

there.[143]

2. The Subsidy Is Countervailable

a. Financial Contribution

The Department has found that the 80-IB Tax Program provides a financial contribution within the meaning of Section 771(5)(D)(ii) of the Act in the form of foregone tax revenue.[144]

b. Benefit

The 80-IB Tax Program provides a benefit under Section 771(5)(E) of the Act in the amount of the tax payments exempted.

c. Specificity

The Department has previously determined that the 80-IB Tax Program is specific within the meaning of Section 771(5A)(D)(iv) of the Act because it is "limited to enterprises in geographically limited areas" – i.e., only qualifying companies in those regions of India that have been specifically designated by the GOI as "industrially backward."[145]

K. Special Economic Zones

In 2000, the GOI announced the Special Economic Zones ("SEZs") program in the *Foreign Trade Policy* to promote economic growth through an export scheme "with the minimum possible regulations."[146] Later, the GOI passed the SEZ Act, 2005 (the "SEZ Act") for the purpose of expanding the use of SEZs and codifying the specific subsidies available to

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[143] Eighth Schedule of the Income Tax Act, List of Industrially Backward States and Union Territories, Exhibit VII-10.

[144] *Id.* at 10.

[145] *Id.*

[146] SEZ India website introduction, sezindia.nic.in/about-introduction.asp, Exhibit VII-11.

producers and exporters in SEZs.[147]

Beginning with the 2006 administrative review of *Hot-Rolled Steel from India*, the Department has repeatedly found that the GOI provides significant countervailable subsidies to producers and exporters – including Indian producers of CRS and other steel products – with facilities located in SEZs.[148]

Furthermore, the Department has found that the purpose of the SEZ Act is to increase exports of certain products and industries. As the Department explained in the 2009 new shipper review of *India PET Film*:

> the nature of an SEZ is to provide a long-term and stable policy framework with a minimal regulatory regime and to provide an expeditious and single window clearance mechanism for all eligible to apply for an SEZ. An SEZ may be established jointly or individually by the Central Government, the State Government or a person, i.e., companies... to manufacture goods or provide services, or both, as well as to serve as a Free Trade and Warehousing Zone. Companies/persons or Governments that want to set up an SEZ in an identified area, can submit their proposal to the relevant State Government. To be eligible under the SEZ Act, the companies inside an SEZ must commit to export their production of goods and/or services. Specifically, all products produced, excluding rejects and certain domestic sales, must be exported and must achieve a net foreign exchange ("NFE"), calculated cumulatively for a period of five years from the commencement of production. In return, the companies inside the SEZ are eligible to receive various forms of assistance.[149]

In prior proceedings, the Department has found countervailable the following subsidies provided by the GOI under the SEZ Act:

- Duty-free import of capital goods and raw materials, components, consumables,

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[147] SEZ India website introduction (April 30, 2015), Exhibit VII-11; *Special Economic Zones Act, 2005*, ("*SEZ Act, 2005*") at Chapter VIII, Para 50, Exhibit VII-12.

[148] *See CWP from India IDM*; *PET Film 2009 NSR*; *Lined Paper 2010 AR IDM*; *Hot-Rolled Steel from India 2008 AR IDM*; *Hot-Rolled Steel from India 2007 AR IDM; Hot-Rolled Steel from India 2006 AR IDM.*

[149] *PET Film 2009 NSR IDM* at 13.

intermediates, spare parts and packing material;

- Exemption of CST on the purchase of capital goods and raw materials, components, consumables, intermediates, spare parts and packing material ;
- Exemption from electricity duty and cess on electricity supplied to a SEZ unit;
- Exemption from the payment of income tax;
- Exemption from payment of the Service Tax; and
- Exemption from payment of local government taxes and duties, such as sales tax and stamp duties.[150]

Since the Department has found that CRS and other steel industry producers have facilities in SEZs, making them eligible for benefits, and they export, the Department should investigate the provision of these programs to CRS producers.

1. Duty-Free Importation Of Capital Goods And Raw Materials, Components, Consumables, Intermediates, Spare Parts, And Packing Material

a. Factual Background

Under the SEZ Act, companies with facilities located in SEZs are entitled to an "exemption from any duty of customs... or any other law for the time being in force, on goods imported into, or service provided in, a {SEZ} or a Unit, to carry on the authorized operations" of the company.[151] The "goods" covered by this exemption include "capital goods and raw materials, components, consumables, intermediates, spare parts and packing material."[152] The Department has determined that this exemption is countervailable in multiple proceedings.[153]

b. The Subsidy Is Countervailable

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[150] *See CWP from India IDM*; *PET Film 2009 NSR*; *Lined Paper 2010 AR IDM*; *Hot-Rolled Steel from India 2008 AR IDM*; *Hot-Rolled Steel from India 2007 AR IDM.*

[151] *The SEZ Act 2005*, Chapter VI, 26(a), Exhibit VII-12.

[152] *PET Film 2009 NSR IDM* at 14.

[153] *See id.*

i. Financial Contribution

The exemption of import duties constitutes a financial contribution under Section 771(5)(D)(ii) of the Act in the form of revenue foregone.[154]

ii. Benefit

The exemption from import duties provides a benefit in the amount of the duties exempted, within the meaning of Section 771(5)(E) of the Act.[155]

iii. Specificity

The Department has found that the exemption from import duties under the SEZ Act specific within the meaning of Section 771(5A)(B) of the Act because it is contingent upon export.[156]

2. Exemption From Payment Of CST On Purchases Of Capital Goods And Raw Materials, Components, Consumables, Intermediates, Spare Parts, And Packing Material

a. Factual Background

Under the SEZ Act, the GOI exempts companies located in SEZs from paying CST (Central Sales Tax) on the "sale or purchase of goods . . . under the Central Sales Tax Act, 1956, if such goods are meant to carry on the authorized operations" of the company.[157] The "goods" exempted from CST include "capital goods and raw materials, components, consumables, intermediates, spare parts and packing material" that are procured domestically.[158] The

[154] *Id.*

[155] *Id.*

[156] *Id.*

[157] *The SEZ Act 2005*, Chapter VI, 26(g), Exhibit VII-12.

[158] *PET Film 2009 NSR IDM* at 15.

Department has previously determined that the exemption from CST is countervailable and is used by Indian CRS and other steel industry producers and exporters with facilities in SEZs in India.[159]

b. The Subsidy Is Countervailable

i. Financial Contribution

The Department has determined that the exemption from CST provides a financial contribution under Section 771(5)(D)(ii) of the Act in the form of revenue foregone.[160]

ii. Benefit

The exemption from CST provides a benefit as defined by Section 771(5)(E) of the Act in the amount of CST due and not collected.[161]

iii. Specificity

The Department has found that the exemption from CST is specific within the meaning of Section 771(5A)(B) of the Act because it is contingent upon export.[162]

3. Exemption From Electricity Duty And Cess On Electricity Supplied To A SEZ Unit

a. Factual Background

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159 *Id.*; *Hot-Rolled Steel from India 2008 AR IDM* at II.A.19.

160 *PET Film 2009 NSR IDM* at 15.

161 *Id.*

162 *Id.* at 14.

The GOI's rules governing SEZs require Indian state governments ("ISGs") to provide exemptions from electricity duty and cess[163] on the sale of self-generated or purchased electric power for use in the SEZ.[164]

b. The Subsidy Is Countervailable

i. Financial Contribution

The Department has determined that the exemptions from electricity duty and cess provide a financial contribution in the form of revenue foregone, within the meaning of Section 771(5)(D)(ii) of the Act.[165]

ii. Benefit

The exemptions from electricity duties and cess confer a benefit within the meaning of Section 771(5)(E) of the Act equal to the amount of the exempted electricity duty and cess.[166]

iii. Specificity

The Department has found that the exemptions from electricity duties and cess are specific within the meaning of Section 771(5A)(B) of the Act because they are contingent upon export.[167]

4. SEZ Income Tax Exemption

a. Factual Background

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163 Education cess is a tax levied on top of other taxes at a rate of two percent, nominally to support the Indian education system. *See Threaded Rod from India IDM* at 20.

164 *See The Special Economic Zone Rules* (incorporating amendments up to July 2010), at II.5.(5)(b), Exhibit VII-13.

165 *PET Film 2009 NSR IDM* at 15.

166 *Id.*

167 *Id.* at 14.

As the Department has found, companies with facilities in SEZs receive a 100 percent exemption from income taxes on export income in the first five years of operation, a 50 percent exemption during the following five years, and a further exemption of 50 percent on export income reinvested in India for an additional five years.[168] As long as a company's unit inside the SEZ started production on or after April 2001, the company is not required to make a formal application in order to take this tax deduction.[169]

b. The Subsidy Is Countervailable

i. Financial Contribution

The Department has previously determined that the income tax exemption provides a financial contribution in the form of revenue foregone within the meaning of Section 771(5)(D)(ii) of the Act.[170]

ii. Benefit

The income tax exemption provides a recurring benefit as defined by Section 771(5)(E) of the Act and 19 C.F.R. § 351.524(c) that is equal to the difference between the amount of income tax that would be payable absent this program and the actual amount of tax paid by the producer/exporter.[171]

iii. Specificity

The Department has found that the income tax exemption is specific within the meaning

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[168] *Hot-Rolled Steel from India 2008 AR IDM* at II.A.18; *See also PET Film 2009 NSR IDM* at 18; *CWP from India IDM* at 23-24.

[169] *PET Film 2009 NSR IDM* at 18.

[170] *PET Film 2009 NSR IDM* at 18.

[171] *Id.*

of Section 771(5A)(B) of the Act because it is contingent upon export.[172]

5. Service Tax Exemption

a. Factual Background

Pursuant to the SEZ Act, the GOI exempts SEZ units from paying Service Tax "under Chapter V of the Finance Act, 1994 on taxable services provided to... carry on the authorized operations in a Special Economic Zone."[173] The tax rate is 12.36 percent.[174] In prior proceedings, the Department has found that the exemption of Service Tax for SEZ units is countervailable and has been used by Indian CRS producers.[175]

b. The Subsidy Is Countervailable

i. Financial Contribution

The exemption from Service Tax is a financial contribution within the meaning of Section 771(5)(D)(ii) of the Act in the form of revenue forgone.[176]

ii. Benefit

As previously determined by the Department, the exemption from Service Tax provides a benefit under 19 C.F.R. § 351.510(a) and Section 771(5)(E) of the Act in the amount of Service

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172 *Id.* at 14.

173 *SEZ Act, 2005*, at Chapter VI.26.1.e, Exhibit VII-12.

174 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.20.

175 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.20; *Hot-Rolled Steel from India 2007 AR IDM* at IV.4.d.

176 *Hot-Rolled Steel from India 2007 AR IDM* at IV.4.d.

Tax that would otherwise be paid absent the exemption.[177] Pursuant to 19 C.F.R. § 351.510(b), the benefit is received at the time the services subject to the tax are provided.[178]

iii. **Specificity**

The exemption from Service Tax is specific within the meaning of Section 771(5A)(B) of the Act because it is contingent upon export.[179]

6. **Exemption From Payment Of Local Government Taxes And Duties, Such As Sales Tax And Stamp Duties**

a. **Factual Background**

In the 2007 administrative review of *Hot-Rolled Steel from India*, the Department determined that steel producer Essar Steel Ltd. was exempted from certain local government taxes and duties in connection with its development of a SEZ in Gujarat.[180] Specifically, the Department found that the stamp duty and the registration charge were not collected on Essar's lease for the SEZ land.[181] As Essar is a CRS producer,[182] this indicates that CRS producers are eligible for and have received the subsidy.

b. **The Subsidy Is Countervailable**

i. **Financial Contribution**

The exemption from the payment of local government taxes and duties constitutes a

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177 *Id.*

178 *Id.*

179 *PET Film 2009 NSR IDM* at 14.

180 *Hot-Rolled Steel from India 2007 AR IDM* at Section IV.B.1.

181 *Id.*

182 Essar Steel Products and Processes – Galvanized, Exhibit VII-14.

financial contribution within the meaning of Section 771(5)(D)(ii) of the Act in the form of revenue forgone.[183]

ii. Benefit

The Department has determined that the exemption from the payment of local government taxes and duties constitutes a benefit within the meaning of Section 771(5)(E) in the amount of the taxes and duties exempted.[184]

iii. Specificity

The Department has found that the exemption from the payment of local government taxes and duties is specific within the meaning of Section 771(5A)(B) of the Act as it is contingent upon export.[185]

L. Steel Development Fund Loans

1. Factual Background

The Steel Development Fund ("SDF") was established by the GOI in 1978 to provide financial assistance to the Indian steel industry for "technology upgradation, measures connected with pollution control, {and} activities related to {r}esearch & {d}evelopment projects."[186] The GOI completely controls the disbursement of financial assistance under the SDF, which takes the form of long-term loans at below market rates.[187] The Department has found this program to be

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183 *Hot-Rolled Steel from India 2007 AR IDM* at Section IV.B.1.

184 *Id.*

185 *Id.* at 14.

186 *Id.* at 21.

187 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.7.

countervailable in prior proceedings and to be used by producers of various steel products, including CRS products.[188]

2. The Subsidy Is Countervailable

a. Financial Contribution

The SDF loans constitute a financial contribution within the meaning of Section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.[189]

b. Benefit

The Department has previously determined that the SDF loans provide a benefit within the meaning of Section 771(5)(E)(ii) of the Act to the extent that there is a difference between the amount the recipient pays on the loans and the amount the recipient would pay on a comparable commercial loan.[190]

c. Specificity

The SDF loans are limited by law to a single industry – i.e., the Indian steel industry, including CRS producers – and are therefore specific within the meaning of Section 771(5A)(D)(iii)(I) of the Act.[191]

M. Provision of Goods and Services for Less Than Adequate Remuneration

1. Provision Of Captive Mining Rights For Iron Ore

a. Factual Background

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188 *CWP from India* at 21, *Hot-Rolled Steel from India 2008 AR IDM* at II.A.7.

189 *CWP from India IDM* at 21.

190 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.7

191 *CWP from India IDM* at 21.

Captive mining rights are the right of a company to extract minerals from government-owned land for use in the company's own production process.[192] The GOI grants captive mining rights for certain minerals to eligible applicants under the Mines and Minerals Development and Regulation Act of 1957, as amended ("MMDR"), and the Mineral Concession Rules of 1960, as amended ("MCR").[193] The First Schedule of the MMDR lists the minerals whose mining rights are solely under GOI control.[194] Iron ore is in this schedule.[195] The Department has previously concluded that the GOI's provision of captive mining rights for iron ore is countervailable and that CRS producer Tata has benefited from this subsidy.[196] CRS producer SAIL has also been provided with captive mining rights for iron ore by the GOI.[197]

b. The Subsidy Is Countervailable

i. Financial Contribution

This program provides a financial contribution under Section 771(5)(D)(iii) of the Act in the form of the provision of a good.[198]

ii. Benefit

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192 *Hot-Rolled Steel from India 2008 AR IDM* at "Captive Coal"

193 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.8

194 *Id.*

195 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.8.

196 *CWP from India IDM* at 25, *Hot-Rolled Steel from India 2008 AR IDM* at II.A.8.

197 SAIL, *Annual Report 2011-2012* at 10, Exhibit VII-9.

198 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.8

The Department has found this program to bestow a benefit within the meaning of Section 771(5)(E)(iv) of the Act as it allows producers and exporters with captive mining rights to acquire iron ore for less than adequate remuneration.[199]

iii. Specificity

As this program is limited to certain enterprises and industries, such as CRS producers, that use iron ore, it is specific under Section 771(5A)(D)(iii)(I).[200]

2. Provision Of Captive Mining Rights For Coal

a. Factual Background

In 1973, coal mining in India was nationalized under the *Coal Mines Nationalization Act*, initially reserving coal mining for public companies only.[201] However, the law was revised by the *Coal Mines Nationalization Amendment Act of 1976* to grant captive mining rights to private iron and steel companies as well.[202] Later, another amendment allowed captive use mining for power companies and the cement industry.[203] The Department has previously determined that this program is countervailable.[204]

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199 *Hot-Rolled Steel from India 2006 AR IDM* at "Captive Mining of Iron Ore"

200 *Id.*

201 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.9.

202 *Id.*

203 *Id.*

204 *CWP from India IDM* at 25-26, *Hot-Rolled Steel from India 2008 AR IDM* at II.A.9.

The Department has already found that CRS producer Tata benefits from this program,[205] and CRS producer SAIL reports that it obtains a portion of its coal requirements from captive mines.[206]

b. The Subsidy Is Countervailable

i. Financial Contribution

The Department has determined that the provision of captive mining rights for coal constitutes a financial contribution in the form of the provision of a good within the meaning of Section 771(D)(iii) of the Act.[207]

ii. Benefit

The Department has previously determined that this program provides a benefit within the meaning of Section 771(5)(E)(iv) of the Act by enabling participating firms to obtain coal from the GOI for less than adequate remuneration.[208]

iii. Specificity

This program is specific within the meaning of Section 771(5A)(D)(iii)(I) of the Act, as it only applies to a limited number of enterprises and industries, including certain CRS producers.[209]

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205 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.9.

206 SAIL, *Annual Report 2011-2012* at 10, Exhibit VII-9.

207 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.9

208 *Hot-Rolled Steel from India 2006 AR IDM* at "Captive Mining Rights of Coal"

209 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.9

3. Provision Of High-Grade Iron Ore For Less Than Adequate Remuneration

a. Factual Background

The Department has previously determined that the GOI provides high-grade iron ore to steel producers for less than adequate remuneration through the government-owned National Mineral Development Corporation ("NMDC").[210] The Department has found this program to be countervailable in multiple prior proceedings involving the Indian steel industry.[211]

As the Department has found, the GOI reserves all but a small fraction of NMDC's production of high-grade iron ore (i.e., iron ore lumps and fines with iron content greater than 64 percent) exclusively for use by India's domestic steelmakers.[212] Moreover, under the National Steel Policy 2005 and National Steel Policy 2012, the GOI is taking steps to reduce iron ore exports still further to "preserve the long term competitiveness of the Indian steel industry."[213]

The GOI sets production and other performance goals for NMDC, which NMDC is required to implement pursuant to memoranda of understanding ("MOUs") with the GOI's Ministry of Steel that are renewed on an annual basis.[214] In exchange, the GOI provides "facilitation / assistance" including arranging for approval of NMDC's activities by various

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210 Hot-Rolled Steel from India 2007 AR IDM at Comment 10; *Hot-Rolled Steel from India 2008 AR IDM* at II.A.12.

211 *CWP from India IDM* at 26, *Hot-Rolled Steel from India 2008 AR IDM* at II.A.12., *Hot-Rolled Steel from India 2006 AR IDM* at 13.

212 *See Hot-Rolled Steel from India 2008 AR IDM* at II.A.12.

213 National Steel Policy 2012 at 8-9, Exhibit VII-4; National Steel Policy 2005 at 4-5, Exhibit VII-3.

214 *See, e.g.*, Memorandum of Understanding between NMDC Limited and Ministry of Steel, Government of India for 2012-2013 at 4-6 and 23, Exhibit VII-15.

government ministries on a preferential basis and "{a}ny other assistance as and when required."[215]

Given the GOI's export restraints and continued policy support, it is not surprising that NMDC is able to supply Indian domestic CRS producers with high-grade iron ore for far less than adequate remuneration, as the Department has previously found.[216]

b. The Subsidy Is Countervailable

i. Financial Contribution

The provision of high-grade iron ore by NMDC constitutes a financial contribution within the meaning of Section 771(5)(D)(iii) of the Act in the form of the provision of a good.[217] In this regard, it is important to emphasize that the Department has repeatedly found that NMDC is a "government authority" within the meaning of Section 771(5)(B) of the Act that is capable of providing a financial contribution.[218] Indeed, NMDC is almost entirely owned by the GOI and is under the effective control of the GOI's Ministry of Steel, which appoints the majority of its board members.[219] Like SAIL, NMDC is considered a "public authority" under Indian law and is under the direct administrative control of the GOI's Ministry of Steel.[220] As a "public authority," NMDC is required to comply with laws applicable to administrative agencies of the

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215 *Id.* at 21-22.

216 *CWP from India IDM* at 26, *Hot-Rolled Steel from India 2008 AR IDM* at II.A.12., *Hot-Rolled Steel from India 2006 AR IDM* at 13.

217 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.12.

218 *Hot-Rolled Steel from India 2008 AR IDM* at II.A.12.

219 NMDC Website, NMDC At A Glance, Exhibit VII-16.

220 GOI Ministry of Steel, Public Sector Undertakings under the administrative control of the Ministry, Exhibit VII-17; NMDC, Right To Information Act 2005, Exhibit VII-18.

GOI, such as the provisions of the GOI's Right to Information Act, 2005. Furthermore, NMDC engages in "community management," constructs and operates hospitals and schools, builds roads and water wells, and performs various other government functions normally performed by central, state, and local governments in India.[221]

ii. Benefit

The Department has found that NMDC provides high-grade iron ore lumps and fines for less than adequate remuneration to CRS producer Tata and thereby confers a benefit within the meaning of Section 771(5)(E)(iv) of the Act in the form of the provision of a good for less than adequate remuneration.[222]

iii. Specificity

As the Department has repeatedly found, NMDC's provision of high-grade iron ore for less than adequate remuneration is specific under Section 771(5A)(D)(iii)(I) of the Act because the recipients of the subsidy are limited in number.[223]

4. Provision of Flat-Rolled Steel by the Steel Authority of India ("SAIL") for Less than Adequate Remuneration

a. Factual Background

CRS is made from flat-rolled steel, either hot-rolled or cold-rolled. In *CWP from India*, the Department determined that the Steel Authority of India ("SAIL") provides hot-rolled steel to steel product producers in India for less than adequate remuneration, thereby conferring a countervailable subsidy, and the Department has preliminarily found this subsidy to be used by

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[221] *See* NMDC, Community Management, Exhibit VII-18.

[222] *Hot-Rolled Steel from India 2008 AR IDM* at II.A.12.

[223] *Hot-Rolled Steel from India 2008 AR IDM* at II.A.12.

the Indian pipe and tube industry in its investigation of oil country tubular goods from India.[224] Based on the information reasonably available to Petitioners, there is a reasonable basis to believe or suspect that SAIL supplies both hot-rolled and cold-rolled steel to India's CRS producers for less than adequate remuneration.

SAIL was specifically created in order to promote the development of India's steel industry, including the production and export of high value-added products such as OCTG.[225] SAIL receives direct funding from the GOI's treasury and uses these funds to increase its production of a variety of key intermediate steel products, including hot-rolled and cold-rolled steel.[226] As a consequence, SAIL is the largest steel producer in India.[227]

Furthermore, the evidence reasonably available to Petitioners shows that SAIL provides flat-rolled steel to downstream consumers, such as the CRS industry, at less than adequate remuneration in accordance with GOI policies. For example, in April 2012, SAIL kept its base prices for both hot-rolled and cold-rolled steel unchanged, despite strong demand, a rise in international prices, price increases by other Indian steel producers, and a rise in duties on

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224 *CWP from India IDM* at Section L.1; *Certain Oil Country Tubular Goods from India*, Issues and Decision Memorandum at 20 (Dec. 16, 2013) ("*India OCTG Prelim. IDM*").

225 *See* SAIL, A Rich Heritage, Exhibit VII-41 (Exhibit III-57 to OCTG Petition); GOI Ministry of Steel 2011-2012 Annual Report at 25-28, Exhibit VII-41 (Exhibit III-58 to OCTG from India Petition).

226 GOI Ministry of Steel 2011-2012 Annual Report at 25, 29 Exhibit VII-41 (Exhibit III-58 to OCTG Petition); SAIL – Into the Future, Exhibit VII-41 (Exhibit III-59 to OCTG from India Petition).

227 SAIL, *Annual Report 2011-2012* at 2, Exhibit VII-41 (Exhibit III-63 to OCTG from India Petition).

imported steel, reportedly due to pressure from the GOI "to keep prices in check."[228] Recently SAIL announced plans to expand its cold-rolled capacity for auto production even when demand in the sector had slumped.[229] The Indian Steel Ministry also recently asked SAIL to expedite construction of a cold-rolled mill to double its capacity.[230] Such expansions tend to flood the market and depress prices. Moreover, the GOI enables SAIL to provide flat-rolled steel for less than adequate remuneration through a host of subsidies, including the provision of countervailable captive mining rights for iron ore and coal. Indeed, SAIL reports that during its 2011-2012 fiscal year, it met its entire requirements for iron ore and a portion of its requirements for coal from the output of captive mines provided by the GOI.[231]

It is likely, given SAIL's major share of the Indian flat-rolled steel industry, that Indian producers of CRS have received flat-rolled steel from SAIL for less than adequate remuneration.

b. The Subsidy Is Countervailable

i. Financial Contribution

The Department has previously determined that the provision of hot-rolled steel by SAIL for less than adequate remuneration constitutes a financial contribution by a government authority in the form of a direct provision of a good under Section 771(5)(D)(iii) of the Act.[232]

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228 "India's Sail says 'no change' to most April base prices," *Steel Business Briefing* (Apr. 5, 2012), Exhibit VII-41 (Exhibit III-64 to OCTG from India petition).

229 "Steel Authority of India's Cold Rolled Mill Plans Fly in the Face of Demand," agmetalminer.com (Nov. 21, 2013), Exhibit VII-42.

230 "SAIL Unit Asked to Expedite Commissioning of Third Mill," *Press Trust of India* (Aug. 23, 2014), Exhibit VII-43.

231 SAIL, *Annual Report 2011-2012* at 10, Exhibit VII-41 (Exhibit III-63 to OCTG from India Petition).

232 *CWP from India IDM* at 24-25.

In this regard, it is important to emphasize that SAIL, as its name implies, meets the definition of a "government authority" capable of providing a financial contribution within the meaning of Section 771(5)(B) of the Act. The GOI is able to control the actions of SAIL by virtue of its dominant ownership stake in the company. Specifically, the GOI "owns about 86 {percent} of SAIL's equity and retains voting control of the Company."[233] As discussed above, the GOI uses its control of SAIL to ensure that the company supports development of the Indian steel industry by, *inter alia*, providing key inputs such as flat-rolled steel for less than adequate remuneration.

Moreover, it is clear that the GOI considers SAIL to be a government authority under its own legal regime. Specifically, SAIL is designated as a "public authority" under Indian law that is subject to the Indian Right to Information Act, 2005. SAIL must comply with the terms of the Right to Information Act, 2005 just like any other government agency and authority of the GOI.[234] This includes the obligation to respond to public requests for information, to maintain adequate records and employ personnel to handle information requests, and to publish annual reports on its compliance with the law.[235]

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[233] SAIL website, about us, http://www.sail.co.in/aboutus.php?tag=company-aboutus, Exhibit VII-41 (Exhibit III-68 to OCTG from India Petition).

[234] SAIL, *Annual Report 2011-2012* at 15, Exhibit VII-41 (Exhibit III-63 to OCTG from India Petition); SAIL Website, RTI-FAQs, at "What does a 'Public Authority' mean?", Exhibit VII-41 (Exhibit III-69 to OCTG from India Petition).

[235] *Id.*

ii. Benefit

As the Department has previously determined, the provision of flat-rolled steel by SAIL constitutes a benefit under Section 771(5)(E)(iv) of the Act equal to the difference between the market price for hot-rolled steel in India and the price charged by SAIL.[236]

iii. Specificity

The flat-rolled steel provided by SAIL to OCTG producers for less than adequate remuneration is specific within the meaning of Section 771(5A)(D)(iii)(I) of the Act because the actual recipients of the subsidy (i.e., users of flat-rolled steel) are limited in number.[237]

N. Incremental Exports Incentivisation Scheme

1. Factual Background

For the 2013-2014 fiscal year, the GOI introduced the Incremental Exports Incentivisation Scheme ("IEIS").[238] This program gives exporting companies a fully transferable "duty credit scrip" (redeemable against certain tax or duty payments) equal to 2 percent of the year-over-year growth in that company's exports to selected countries, including the United States.[239] The program is not available for certain listed exports such as precious metals and metal ores, but steel products are not on the excluded list.[240]

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236 *CWP from India IDM* at 25, *citing Hot-Rolled Steel from India 2008 AR IDM* at II.A.12

237 *CWP from India IDM* at 25.

238 Impex Consultancy Services, "Incremental Exports Incentivisation Scheme" (April 18, 2013), Exhibit VII-19.

239 *Id.*

240 *Id.*

2. The Subsidy Is Countervailable

a. Financial Contribution

The IEIS provides a financial contribution within the meaning of Section 771(5)(D)(ii) of the Act in the form of revenue foregone because Indian duty credit scrips effectively reimburse or offsets duties that would otherwise have been due.[241]

b. Benefit

The FPS provides a benefit within the meaning of Section 771(5)(E) of the Act equal to the value of the "Duty Credit Scrip" obtained under the program and any associated duty benefits.

c. Specificity

The FPS is specific within the meaning of Section 771(5A)(B) of the Act because it is contingent upon export.

III. State Government Subsidy Programs

Indian state governments award a broad array of subsidies. Which ones would be applicable in a CRS investigation would obviously depend on which CRS producers the Department investigates. For present purposes, Petitioners allege that Indian CRS producers benefit from subsidy programs in six Indian states. The Department has already examined subsidy programs in these states in its investigations or reviews of hot-rolled steel producers Tata, Essar, and JSW Ispat, all of which also make CRS, and found that these producers avail themselves of a range of state government subsidy programs.

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[241] *Threaded Rod from India IDM* at 16.

A. State Government Of Andhra Pradesh Subsidy Programs

The Department has previously determined that the State Government of Andhra Pradesh ("SGAP") provides countervailable subsidies to producers and exporters located in the state, including producers and exporters of CRS.[242] As established below, the evidence reasonably available to Petitioners indicates that Indian CRS producers and exporters with facilities in Andhra Pradesh benefit from SGAP subsidies that the Department has previously investigated and found countervailable.

1. Subsidies Under the SGAP Industrial Investment Promotion Policy

The Department has previously determined that the SGAP provides countervailable subsidies to producers and exporters located in the state, including producers and exporters of CRS, under SGAP's *Industrial Investment Promotion Policy 2005-2010* ("*IIPP 2005-2010*").[243] Recently the SGAP extended these subsidies through the *Industrial Investment Promotion Policy 2010-2015* ("*IIPP 2010-2015*"),[244] which is virtually identical in all respects to the *IIPP 2005-2010.*

Under both *IIPP 2005-2010* and *IIPP 2010-2015*, a company that establishes a "new industrial enterprise" or a "project involving substantial expansion/diversification of existing industries" in one of the eligible industries may receive a range of subsidies provided it is not

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[242] *Hot-Rolled Steel from India 2008 AR IDM, Hot-Rolled Steel from India 2006 AR IDM.*

[243] *Hot-Rolled Steel from India 2008 AR IDM, Hot-Rolled Steel from India 2006 AR ID*; SGAP, *Industrial Investment Promotion Policy 2005-2010* ("*IIPP 2005-2010*"), Exhibit VII-21.

[244] SGAP, *Industrial Investment Promotion Policy 2010-2015*, G.O.Ms.No.61, ("*IIPP 2010-2015*"), Exhibit VII-20.

located within the incorporated limits of the cities of Vijayawada, Visakhapatnam, or Hyderabad.[245]

Higher levels of subsidies are offered to eligible companies that qualify as a "large industry" by making an investment in plant and machinery worth more than Rs. 100,000,000[246] and less than Rs. 2,500,000,000, or as a "mega project" by making an investment in plant and machinery worth more than Rs. 2,500,000,000.[247] Heavy engineering industries, such as CRS production, are entitled to all subsidies allowed for their size.[248]

It is likely that CRS producers and exporters qualify for, and benefit from, the subsidies provided under the *IIPP 2005-2010* and *IIPP 2010-2015*. The Department has already found that CRS producer Tata has benefited from SGAP IIPP programs,[249] so CRS producers are clearly eligible for such subsidies.

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245 *IIPP 2010-2015* at Para 5, *IIPP 2005-2010* at Para 16.

246 *IIPP 2005-2010* at Annexure I, Para III.

247 *IIPP 2010-2015* at Para 4.2.0.

248 Heavy engineering industries qualify for all subsidies as they are not listed in either Annexure I, titled " industries that are only allowed investment subsidies," or in Annexure II, "ineligible industries," of the *IIPP 2010-2015*.

249 *Hot-Rolled Steel from India 2008 AR IDM* at II.D (Tata) & *Hot-Rolled Steel from India 2006 AR IDM*

a. **Grant Under the Industrial Investment Promotion Policy: 25 Percent Reimbursement of the Cost of Land in Industrial Estates and Development Areas**

i. **Factual Background**

The Department previously determined that the 25 percent discount on the cost of land to companies building new or expanding existing industrial enterprises is a countervailable subsidy.[250]

ii. **The Subsidy Is Countervailable**

1. **Financial Contribution**

The 25 percent reimbursement of the cost of land constitutes a financial contribution within the meaning of Section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.[251]

2. **Benefit**

The Department has previously found that the 25 percent reimbursement of the cost of land confers a benefit under Section 771(5)(E) of the Act in the amount of the transfer of funds.[252]

3. **Specificity**

The 25 percent reimbursement of the cost of land is specific within the meaning of Sections 771(5A)(D)(i) and 771(5A)(D)(iii) of the Act because the subsidy is limited to certain eligible enterprises and industries which make the requisite level of investments in plant and machinery.[253] In addition, the subsidy is specific within the meaning of Section 771(5A)(D)(iv)

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250 *Hot-Rolled Steel from India 2008 AR IDM* at II.D.1.

251 *Id.*

252 *Id.*

253 *Id.*

of the Act because it is limited to enterprises and industries located in a designated geographical region within the jurisdiction of the authority granting the subsidy – i.e., those areas outside of the incorporated limits of the cities of Vijayawada, Visakhapatnam, and Hyderabad designated by the SGAP.

b. Grant Under the Industrial Investment Promotion Policy: Reimbursement of Power at the Rate of Rs. 0.75 per Unit

i. Factual Background

Under the *IIPP 2005-2010* and *IIPP 2010-2015*, the SGAP provides a fixed power charge ceiling of Rs. 0.75 per energy unit for all eligible new industrial enterprises for expansion/diversification projects.[254] Any charges over that ceiling are directly reimbursed by the SGAP.[255] The ceiling goes into effect from the date production commences at the industrial enterprise, with reimbursement available for the first five years from that date.[256] The Department has previously found this subsidy to be countervailable.[257]

ii. The Subsidy Is Countervailable

1. Financial Contribution

The reimbursement of power charges constitutes a financial contribution within the meaning of Section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.[258]

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[254] *IIPP 2010-2015* at 4.2.5.

[255] *Id.*

[256] *Id.*

[257] *Hot-Rolled Steel from India 2008 AR IDM* at II.D.2.

[258] *Id.*

2. Benefit

The Department has previously found that the reimbursement of power charges provides a benefit within the meaning of Section 771(5)(E) of the Act in the amount of the transfer of funds.[259]

3. Specificity

The reimbursement of power charges is specific within the meaning of Sections 771(5A)(D)(i) and 771(5A)(D)(iii) of the Act because the subsidy is limited to certain eligible enterprises and industries which make the requisite level of investments in plant and machinery.[260] In addition, the subsidy is specific within the meaning of Section 771(5A)(D)(iv) of the Act because it is limited to enterprises and industries located in a designated geographical region within the jurisdiction of the authority granting the subsidy – i.e., those areas outside of the incorporated limits of the cities of Vijayawada, Visakhapatnam, and Hyderabad designated by the SGAP.

c. Grant Under the Industrial Investment Promotion Policy: 50 Percent Subsidy for Expenses Incurred for Quality Certification

i. Factual Background

In *HRS from India 2008 AR*, the Department found that SGAP's 50 percent reimbursement of expenses incurred for quality certification of an eligible industry's "new facilities or substantially expand{ed} existing facilities" under *IIPP 2005-2010* is countervailable

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259 *Id.*

260 *Id.*

and benefited CRS producer Tata.[261] There has been no change to this program under the *IIPP 2010-2015*.[262]

ii. The Subsidy Is Countervailable

(1) Financial Contribution

In a prior proceeding, the Department found that the grant for quality certification subsidy constitutes a financial contribution within the meaning of Section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.[263]

(2) Benefit

The Department has previously determined that the grant for quality certification subsidy provides a benefit within the meaning of Section 771(5)(E) of the Act in the amount of the transfer of funds.[264]

(3) Specificity

The grant for quality certification subsidy is specific within the meaning of Sections 771(5A)(D)(i) and 771(5A)(D)(iii) of the Act because the subsidy is limited to certain eligible enterprises and industries which make the requisite level of investments in plant and machinery.[265] In addition, the subsidy is specific within the meaning of Section 771(5A)(D)(iv) of the Act because it is limited to enterprises and industries located in a designated geographical region within the jurisdiction of the authority granting the subsidy – i.e., those areas outside of

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261 *Hot-Rolled Steel from India 2008 AR IDM* at II.D.3.

262 *Compare* IIPP 2005-2010 at 15.2.8 *with* IIPP 2010-2015 at 4.2.8

263 *Hot-Rolled Steel from India 2008 AR IDM* at II.D.3.

264 *Id.*

265 *Id.*

the incorporated limits of the cities of Vijayawada, Visakhapatnam, and Hyderabad designated by the SGAP.

d. Grant Under the Industrial Investment Promotion Policy: 50 Percent Subsidy on Expenses Incurred in Patent Registration

i. Factual Background

Under the *IIPP 2005-2010* and *IIPP 2010-2015*, eligible companies are entitled to receive a 50 percent reimbursement of expenses incurred for patent registration for either new facilities or existing facilities that have been substantially expanded.[266] The Department has found this program to be countervailable in a prior proceeding.[267]

ii. The Subsidy Is Countervailable

(1) Financial Contribution

The reimbursement of patent registration expenses by the SGAP constitutes a financial contribution within the meaning of Section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.[268]

(2) Benefit

The Department has previously found that SGAP's reimbursement of patent registration expenses provides a benefit within the meaning of Section 771(5)(E) of the Act in the amount of expenses that are reimbursed.[269]

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266 *Hot-Rolled Steel from India 2008 AR IDM* at II.D.5, IIPP at 4.2.8.

267 *Hot-Rolled Steel from India 2008 AR IDM* at II.D.5.

268 *Hot-Rolled Steel from India 2008 AR IDM* at II.D.3.

269 *Id.*

(3) Specificity

The reimbursement of patent registration expenses is specific within the meaning of Sections 771(5A)(D)(i) and 771(5A)(D)(iii) of the Act because the subsidy is limited to certain eligible enterprises and industries which make the requisite level of investments in plant and machinery.[270] In addition, the subsidy is specific within the meaning of Section 771(5A)(D)(iv) of the Act because it is limited to enterprises and industries located in a designated geographical region within the jurisdiction of the authority granting the subsidy – i.e., those areas outside of the incorporated limits of the cities of Vijayawada, Visakhapatnam, and Hyderabad designated by the SGAP.

e. Grant Under the Industrial Investment Promotion Policy: 25 Percent Subsidy on Cleaner Production Measures

i. Factual Background

The Department has previously determined that the SGAP's 25 percent subsidy on cleaner production measures is countervailable.[271] Under the *IIPP 2005-2010* and *IIPP 2010-2015*, eligible companies can apply the 25 percent subsidy to the "cost incurred on capital equipment installation for... adoption of cleaner technologies and techniques within the industry to reduce and avoid pollution and waste in the entire production cycle."[272] The evidence reasonably available to Petitioners shows that CRS producers likely benefit from this subsidy. For example, CRS producer and exporter SAIL had Rs. 120,000,000,000 in capital investments

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[270] *Id.*

[271] *Hot-Rolled Steel from India 2008 AR IDM* at II.D.4.

[272] *IIPP 2010-2015 Guidelines* at 5.9

during the 2012-2013 fiscal year, including investments to meet SAIL's objectives for "growth and infusion of state of the art environmental{ly} friendly technologies."[273]

ii. The Subsidy Is Countervailable

(1) Financial Contribution

The subsidy for cleaner production measures constitutes a financial contribution within the meaning of Section 771(5)(D)(i) of the Act in the form of a direct transfer of funds.[274]

(2) Benefit

The Department has previously found that the subsidy for cleaner production measures provides a benefit within the meaning of Section 771(5)(E) of the Act in the amount of the transfer of funds.[275]

(3) Specificity

The subsidy for cleaner production measures is specific within the meaning of Sections 771(5A)(D)(i) and 771(5A)(D)(iii) of the Act because the subsidy is limited to certain eligible enterprises and industries which make the requisite level of investments in plant and machinery.[276] In addition, the subsidy is specific within the meaning of Section 771(5A)(D)(iv) of the Act because it is limited to enterprises and industries located in a designated geographical region within the jurisdiction of the authority granting the subsidy – i.e., those areas outside of

[273] SAIL targets Capital Expenditure of Rs. 12,000 crore during FY'13, SAIL Press Release, Sept. 21, 2012, Exhibit VII-22.

[274] *Hot-Rolled Steel from India 2008 AR IDM* at II.D.4.

[275] *Id.*

[276] *Id.*

the incorporated limits of the cities of Vijayawada, Visakhapatnam, and Hyderabad designated by the SGAP.[277]

f. Tax Incentives Under the Industrial Investment Promotion Policy: 100 Percent Reimbursement of Stamp Duty and Transfer Duty Paid for the Purchase of Land and Buildings and the Obtaining of Financial Deeds and Mortgages

i. Factual Background

Under the *IIPP 2005-2010* and *IIPP 2010-2015*, all eligible new industrial enterprises and expansion/diversification projects are entitled to a 100 percent reimbursement of stamp duty and transfer duty from the SGAP.[278] This reimbursement applies to duties paid by producers and exporters on the "purchase of land meant for industrial use" as well as on "lease of land/shed/buildings and also mortgages and hypothecations deeds."[279] The Department has previously determined this program to be countervailable, and used by CRS producer Tata.[280] According to press reports, CRS producer and exporter SAIL also entered into a deal in early 2012 to acquire Brahmani Steel's 14,700 acres of land in Andhra Pradesh for construction of a 2.5 million ton steel plant.[281]

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277 *Id.*

278 *IIPP 2010-2015* at 4.2.1 and 4.2.2.

279 *Id.*

280 *Hot-Rolled Steel from India 2008 AR IDM* at II.D.6.

281 SAIL Offers to acquire Brahmani Steel in Andhra Pradesh, The Hindu Business Line, March 22, 2012, Exhibit VII-23.

ii. The Subsidy Is Countervailable

1) Financial Contribution

The reimbursement of stamp duty and transfer duty under the *IIPP 2005-2010* and *IIPP 2010-2015* constitutes a financial contribution under Section 771(5)(D)(ii) of the Act in the form of revenue foregone.[282]

2) Benefit

As the Department has previously determined, the reimbursement of stamp duty provides a benefit within the meaning of Section 771(5)(E) of the Act in the amount of the stamp duty and transfer duty reimbursed.[283]

3) Specificity

The reimbursement of stamp duty and transfer duty is specific within the meaning of Sections 771(5A)(D)(i) and 771(5A)(D)(iii) of the Act because the subsidy is limited to certain eligible enterprises and industries which make the requisite level of investments in plant and machinery.[284] In addition, the subsidy is specific within the meaning of Section 771(5A)(D)(iv) of the Act because it is limited to enterprises and industries located in a designated geographical region within the jurisdiction of the authority granting the subsidy – i.e., those areas outside of the incorporated limits of the cities of Vijayawada, Visakhapatnam, and Hyderabad designated by the SGAP.[285]

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282 *Hot-Rolled Steel from India 2008 AR IDM* at II.D.6.

283 *Id.*

284 *Id.*

285 *Id.*

g. Tax Incentives Under the Industrial Investment Promotion Policy: 25 Percent Reimbursement on Value Added Tax, CST, and State Goods and Services Tax

i. Factual Background

The Department has previously determined that the SGAP's reimbursement of Value Added Tax ("VAT"), CST, and other state taxes on goods and services is countervailable.[286] Pursuant to the *IIPP 2005-2010* and *IIPP 2010-2015*, this program provides a reimbursement of 25 percent of the VAT, CST, and State Goods and Services Tax paid by companies that are deemed by the SGAP to be "large industries" or "mega projects." Companies are eligible to receive this subsidy for a five year period running from the date of commencement of commercial production of an eligible new or expanded/diversified industrial undertaking.[287]

ii. The Subsidy Is Countervailable

1) Financial Contribution

The Department has found that the reimbursement of VAT, CST, and State Goods and Services Tax constitutes a financial contribution under Section 771(5)(D)(ii) of the Act in the form of revenue foregone.[288]

2) Benefit

As previously determined by the Department, the reimbursement of VAT, CST, and State Goods and Services Tax provides a benefit within the meaning of Section 771(5)(E) of the Act in the amount of the VAT, CST, and State Goods and Services Tax that is reimbursed.[289]

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286 *Hot-Rolled Steel from India 2008 AR IDM* at II.D.7

287 *IIPP 2010-2015* at 4.2.6.

288 *Hot-Rolled Steel from India 2008 AR IDM* at II.D.7

289 *Id.*

3) Specificity

The reimbursement of VAT, CST, and State Goods and Services Tax is specific within the meaning of Sections 771(5A)(D)(i) and 771(5A)(D)(iii) of the Act because the subsidy is limited to certain eligible enterprises and industries which make the requisite level of investments in plant and machinery.[290] In addition, the subsidy is specific within the meaning of Section 771(5A)(D)(iv) of the Act because it is limited to enterprises and industries located in a designated geographical region within the jurisdiction of the authority granting the subsidy – i.e., those areas outside of the incorporated limits of the cities of Vijayawada, Visakhapatnam, and Hyderabad designated by the SGAP.[291]

h. Tax Incentives Under the Industrial Investment Promotion Policy: Exemption from the SGAP Non-agricultural Land Assessment

i. Factual Background

Under the *IIPP 2005-2010* and *IIPP 2010-2015*, however, the SGAP exempts all eligible companies from paying the Non-agricultural Land Assessment.[292] The Department has found this subsidy to be countervailable in a prior proceeding.[293]

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[290] *Id.*

[291] *Id.*

[292] *Hot-Rolled Steel from India 2008 AR IDM* at II.D.8.

[293] *Id.*

ii. The Subsidy Is Countervailable

1) Financial Contribution

The exemption from the Non-agricultural Land Assessment constitutes a financial contribution under Section 771(5)(D)(ii) of the Act in the form of revenue foregone.[294]

2) Benefit

The Department has determined that SGAP's exemption from the Non-agricultural Land Assessment provides a benefit within the meaning of Section 771(5)(E) of the Act in the amount of the tax that is exempted.[295]

3) Specificity

The exemption from the Non-agricultural Land Assessment is specific within the meaning of Sections 771(5A)(D)(i) and 771(5A)(D)(iii) of the Act because the subsidy is limited to certain eligible enterprises and industries which make the requisite level of investments in plant and machinery.[296] In addition, the subsidy is specific within the meaning of Section 771(5A)(D)(iv) of the Act because it is limited to enterprises and industries located in a designated geographical region within the jurisdiction of the authority granting the subsidy – i.e., those areas outside of the incorporated limits of the cities of Vijayawada, Visakhapatnam, and Hyderabad designated by the SGAP.[297]

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[294] *Id.*

[295] *Id.*

[296] *Id.*

[297] *Id.*

i. Provision of Goods and Services for Less than Adequate Remuneration Under the Industrial Investment Promotion Policy: Provision of Infrastructure for Industries Located More Than 10 Kilometers from Existing Industrial Estates or Development Areas

i. Factual Background

Under the *IIPP 2010-2015* (as under the *IIPP 2005-2010*), "infrastructure like roads, power and water {are}provided at {the}door step of the industry for standalone units by contributing 50% of the cost" from the Industrial Infrastructure Development Fund.[298] To be eligible for this program, the industrial unit must be located more than 10 kilometers from an existing industrial estate or industrial development area.[299] The Department has found this program to be countervailable in a prior proceeding.[300]

ii. The Subsidy Is Countervailable

1) Financial Contribution

SGAP's provision of infrastructure constitutes a financial contribution within the meaning of Section 771(5)(D)(iii) of the Act in the form of a provision of a good.[301]

2) Benefit

The Department has previously determined that this program provides a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.511 to the extent that the price charged for infrastructure is less than the market price.[302]

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298 *IIPP 2010-2015* at 4.2.10.

299 *Id.*

300 *Hot-Rolled Steel from India 2008 AR IDM* at II.D.9.

301 *Hot-Rolled Steel from India 2008 AR IDM* at II.D.9.

302 *Id.*

3) Specificity

The SGAP's provision of infrastructure is specific within the meaning of Sections 771(5A)(D)(i) and 771(5A)(D)(iii) of the Act because the subsidy is limited to certain eligible enterprises and industries which make the requisite level of investments in plant and machinery.[303] In addition, the subsidy is specific within the meaning of Section 771(5A)(D)(iv) of the Act because it is limited to enterprises and industries located in a designated geographical region within the jurisdiction of the authority granting the subsidy – i.e., those areas outside of the incorporated limits of the cities of Vijayawada, Visakhapatnam, and Hyderabad designated by the SGAP.[304]

j. Provision of Goods and Services for Less than Adequate Remuneration Under the Industrial Investment Promotion Policy: Guaranteed Stable Prices and Reservation of Municipal Water

i. Factual Background

In a prior proceeding, the Department determined that SGAP subsidies on the price and availability of municipal water were countervailable and benefited CRS producer Tata.[305] Under the *IIPP 2010-2015*, ten percent of water controlled by SGAP is reserved for eligible industrial undertakings.[306] In addition, the SGAP guarantees stable prices for municipal water intended for industrial use for 3 years.[307]

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303 *Id.*

304 *Id.*

305 *Hot-Rolled Steel from India 2008 AR IDM* at II.D.10.

306 *IIPP 2010-2015* at 4.8

307 *Hot-Rolled Steel from India 2008 AR IDM* at II.D.10.

ii. **The Subsidy Is Countervailable**

1) **Financial Contribution**

As the Department has previously determined, the SGAP's water subsidies constitute a financial contribution within the meaning of Section 771(5)(D)(iii) of the Act in the form of a provision of a good.[308]

2) **Benefit**

The Department has found that the SGAP's water subsidies provide a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.511 to the extent that the price charged for water is less than the market price.[309]

3) **Specificity**

As previously determined, the water subsidies are specific within the meaning of Sections 771(5A)(D)(i) and 771(5A)(D)(iii) of the Act because they are limited to certain eligible enterprises and industries which make the requisite level of investments in plant and machinery.[310] In addition, the subsidies are specific within the meaning of Section 771(5A)(D)(iv) of the Act because they are limited to enterprises and industries located in a designated geographical region within the jurisdiction of the authority granting the subsidy – i.e., those areas outside of the incorporated limits of the cities of Vijayawada, Visakhapatnam, and Hyderabad designated by the SGAP.[311]

2. **Subsidies provided by the Andhra Pradesh Industrial Investment Corporation**

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308 *Hot-Rolled Steel from India 2008 AR IDM* at II.D.10.

309 *Id.*

310 *Id.*

311 *Id.*

The Andhra Pradesh Industrial Investment Corporation ("APIIC") is a "wholly owned undertaking" of the SGAP that provides land and industrial infrastructure to promote private industry.[312] APIIC's main objectives include:

> To implement schemes of incentives (financial and otherwise), subsidies, and the like formulated by the Government of Andhra Pradesh, Government of India or other authorities or institutions and to administer such schemes in incentives as may be devised by the company from time to time in the interest of the establishment and development of industries and commerce in the State of Andhra Pradesh.[313]

The APIIC provides subsidies to eligible companies in Andhra Pradesh in the form of allotment of land for less than adequate remuneration.

The evidence reasonably available to Petitioners shows that CRS producers and exporters benefit from the subsidies provided by the APIIC. For example, CRS producer SAIL owns a unit in the APIIC industrial estate in Visakhapatnam, Andhra Pradesh.[314]

i. Factual Background

The APIIC owns and develops industrial sites and allots land within these sites to eligible companies as well as providing "capital, credit, {and} means and resources" to develop their allotments.[315] When directed by the SGAP, the APIIC allots land to companies at "concessional rates.[316]

ii. The Subsidy Is Countervailable

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[312] APIIC Website, About Us, Exhibit VII-24.

[313] APIIC Website, Objectives, Exhibit VII-25.

[314] APIIC, *2010-2011 Annual Report* at 9, Exhibit VII-26.

[315] *Id.*

[316] APIIC Allotment Regulations at § 33, Exhibit VII-27.

1) Financial Contribution

The APIIC's allotment of land at a concessional rate constitutes a financial contribution within the meaning of Section 771(5)(D)(iii) of the Act in the form of the provision of a good.[317]

2) Benefit

The APIIC's provision of land at concessional rates provides a benefit within the meaning of Section 771(5)(E) of the Act and 19 C.F.R. § 351.511 to the extent that the price paid for the land provided by the APIIC is less than what the recipient otherwise would have paid on the market. As discussed above, the SGAP specifically directs the APIIC to provide land at "concessional rates" – i.e., at a discount from what otherwise would have been paid on the market.

3) Specificity

The Department has repeatedly determined that when land use rights are provided at an industrial park located within the jurisdiction of a local government seller, "the provision of land use rights is regionally specific" within the meaning of Section 771(5)(D)(iv) of the Act.[318] APIIC's subsidies are regionally specific under Section 771(5A)(D)(iv) of the Act as they are limited to designated industrial estates within the jurisdiction of the SGAP.

B. State Government Of Gujarat Subsidy Programs

The Department has previously found that the State Government of Gujarat ("SGOG") provides countervailable subsidies to producers and exporters located in the state, including

[317] The Department has repeatedly determined that the provision of land and land-use rights constitutes the provision of a good within the meaning of section 771(5)(D)(iii) of the Act. *See Seamless Pipe from China 2008 AR IDM* at 21.

[318] *See id.*

producers and exporters of CRS.[319] As established below, the evidence reasonably available to Petitioners shows that these CRS producers and exporters benefit from the SGOG subsidies that the Department has previously investigated and found countervailable, as well as additional subsidies that have not been the subject of prior investigations by the Department.

1. The State Government of Gujarat's Exemptions and Deferrals on Sales Tax for Purchases of Goods

a. Factual Background

As previously determined by the Department, the SGOG provides countervailable tax exemptions and deferrals to companies that locate or invest in specific "disadvantaged" areas in the State, including CRS producers.[320] These incentives, which vary based on the level of investment made by a company, include sales tax exemptions for companies on purchases of raw materials, consumable stores, packing materials, and processing materials, as well as the exemption or deferral of sales tax and turnover tax on the sale of intermediate products, by-products, and scrap.[321]

b. The Subsidy Is Countervailable

i. Financial Contribution

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319 *Hot-Rolled Steel from India 2008 AR IDM*, *Hot-Rolled Steel from India 2007 AR IDM*, *Hot-Rolled Steel from India 2006 AR IDM.*

320 *Hot-Rolled Steel from India 2008 AR IDM* at II.B.1 and II.B.2 (Tata); *Hot-Rolled Steel from India 2006 AR IDM* at II.B. (Essar).

321 *Hot-Rolled Steel from India 2008 AR IDM* at II.B.1 and II.B.2

The SGOG's exemptions and deferrals of sales tax have been found to provide a financial contribution within the meaning of Section 771(5)(D)(ii) of the Act in the form of revenue foregone.[322]

ii. Benefit

The Department has previously found this program to provide a benefit under Section 771(5)(E) of the Act in the amount of the unpaid sales tax.[323]

iii. Specificity

The SGOG's exemptions and deferrals of sales tax are provided to "only those companies that make an investment in a specified disadvantaged area" of Gujarat and are, therefore, specific under Section 771(5A)(D)(iv) of the Act.[324]

2. The State Government of Gujarat's VAT Remission Scheme Established on April 1, 2006

a. Factual Background

The Department has previously determined that the SGOG established a VAT remission scheme on April 1, 2006 to remit VAT payments to firms holding unutilized tax incentive credits from other schemes under the SGOG's Sales Tax exemption policy.[325]

There are separate VAT remission schemes for purchases and for sales. For purchases, the eligible company pays the full amount of VAT to the vendor and then receives an input tax

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[322] *Id.* at II.B.1.

[323] *Id.*

[324] *Id.*

[325] *Hot-Rolled Steel from India 2008 AR IDM* at II.B.3.

credit back.[326] For sales, a company must collect the appropriate tax from its customers, but the tax collected can be retained by the company "through a remission order provided by {the SGOG's} sales tax authorities."[327] VAT rates vary depending on the good or service.

The Department has found both of these VAT remission schemes to be countervailable subsidies used by Indian CRS producer Tata.[328]

b. The Subsidy Is Countervailable

i. Financial Contribution

As previously determined by the Department, the VAT remission schemes constitute a financial contribution under Section 771(5)(D)(ii) of the Act in the form of revenue foregone.[329]

ii. Benefit

The Department has determined that the VAT remission schemes provide a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.510(a)(1) in the amount of the difference between the tax participating firms paid under the scheme and the tax participating firms would have paid absent the scheme.[330]

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326 *Id.*

327 *Id.*

328 *Hot-Rolled Steel from India 2008 AR IDM* at II.B.3.

329 *Id.*

330 *Id.*

iii. **Specificity**

As previously determined by the Department, the VAT remission schemes are "regionally specific" within the meaning of Section 771(5A)(D)(iv) of the Act.[331]

3. The State Government of Gujarat Special Economic Zone Act (SGOG SEZ Act): Stamp Duty and Registration Fees for Land Transfers, Loan Agreements, Credit Deeds, and Mortgages

a. **Factual Background**

The Department has previously determined that under the SGOG SEZ Act, CRS producer Tata leased land from a SEZ developer but was not required to pay registration charges or stamp duties on the lease.[332]

b. **The Subsidy Is Countervailable**

i. **Financial Contribution**

As previously determined by the Department, the company's use of SEZ Act programs constitute a financial contribution under Section 771(5)(D)(ii) of the Act in the form of revenue foregone.[333]

ii. **Benefit**

The Department has determined that these SEZ Act programs provide a benefit under Section 771(5)(E) of the Act in the amount of the revenue foregone.[334]

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331 *Id.*

332 *Hot-Rolled Steel from India 2008 AR IDM* at II.B.4.

333 *Id.*

334 *Id.*

iii. **Specificity**

As previously determined by the Department, these subsidies are specific export subsidies within the meaning of Section 771(5A)(B) of the Act.[335]

4. **The State Government of Gujarat Special Economic Zone Act (SGOG SEZ Act): Sales Tax, Purchase Tax, and Other Taxes Payable on Sales and Transactions**

a. **Factual Background**

The Department has previously determined that under the SGOG SEZ Act, CRS producer Tata and other SEZ participants are exempted from payment of sales taxes.[336]

b. **The Subsidy Is Countervailable**

i. **Financial Contribution**

As previously determined by the Department, the company's use of SEZ Act programs constitute a financial contribution under Section 771(5)(D)(ii) of the Act in the form of revenue foregone.[337]

ii. **Benefit**

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335 *Id.*

336 *Hot-Rolled Steel from India 2008 AR IDM* at II.B.5.

337 *Id.*

The Department has determined that these SEZ Act programs provide a benefit under Section 771(5)(E) of the Act in the amount of the revenue foregone.[338]

iii. Specificity

As previously determined by the Department, these subsidies are specific export subsidies within the meaning of Section 771(5A)(B) of the Act.[339]

5. The State Government of Gujarat Special Economic Zone Act (SGOG SEZ Act): Sales and Other State Taxes on Purchases of Inputs (Both Goods and Services) for the SEZ or a Unit Within the SEZ

a. Factual Background

The Department has previously determined that under the SGOG SEZ Act, CRS producer Tata was exempted from taxes on purchases of inputs including both goods and services.[340]

b. The Subsidy Is Countervailable

i. Financial Contribution

As previously determined by the Department, the company's use of SEZ Act programs constitute a financial contribution under Section 771(5)(D)(ii) of the Act in the form of revenue foregone.[341]

ii. Benefit

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[338] *Id.*

[339] *Id.*

[340] *Hot-Rolled Steel from India 2008 AR IDM* at II.B.6.

[341] *Id.*

The Department has determined that these SEZ Act programs provide a benefit under Section 771(5)(E) of the Act in the amount of the revenue foregone.[342]

iii. Specificity

As previously determined by the Department, these subsidies are specific export subsidies within the meaning of Section 771(5A)(B) of the Act.[343]

C. State Government Of Maharashtra Subsidy Programs

The Department has repeatedly found that the State Government of Maharashtra ("SGOM") provides countervailable subsidies to producers and exporters located in the state, including producers and exporters of CRS products.[344]

1. SGOM Sales Tax Program

a. Factual Background under the Maharashtra Package Scheme of Incentives (MPSI) and Maharashtra Industrial Policy (MIP)

As the Department has previously determined, under the *Maharashtra Package Scheme of Incentives* and the *Maharashtra New Package Scheme of Incentives*, the SGOM offers sales tax incentives – including sales tax exemptions, sales tax deferrals, and "sales tax loans" – to

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342 *Id.*

343 *Id.*

344 *See, e.g.*, *Hot-Rolled Steel from India 2006 AR IDM* at Analysis of Programs Section D.1 (Ispat); *Hot-Rolled Steel from India 2008 AR IDM* at III.C.1 (Tata).

companies that have located or invested in certain developing areas in the State of Maharastra.[345] Sales tax refunds and other subsidies under the SGOM's *Package Scheme of Incentives* are also offered under the SGOM's industrial policy.[346] The SGOM's *Package Scheme of Incentives 2007* (discussed in greater detail below) expressly provides that companies that have started production prior to September 30, 2007 will continue to be eligible for all subsidies provided under each of the earlier package schemes of incentives promulgated by the SGOM.[347] The most recent amendment, the *Package Scheme of Incentives 2013*, has the same eligibility criteria as the 2007 version.[348]

b. The Subsidy Is Countervailable

i. Financial Contribution

As the Department has already determined, the SGOM sales tax program constitutes a financial contribution under Section 771(5)(D)(ii) of the Act in the form of revenue foregone for the sales tax exemptions and, in the case of the sales tax deferrals, in the form of uncollected

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345 See, e.g., CWP from India IDM at 26-32; *Hot-Rolled Steel from India 2006AR IDM* at Analysis of Programs Section D; *Hot-Rolled Steel from India* 2006AR Prelim., 73 Fed. Reg. at 1595-1596.

346 KPMG, "Maharashtra Industrial Policy, 2013," Exhibit VII-32.

347 Government of Maharashtra, *Package Scheme of Incentives 2007* (Mar. 30, 2007) at 13, para. 4.2, Exhibit VII-30. As noted therein, companies that begin production after September 30, 2007 but before March 31, 2009 will also be eligible for subsidies under the Package Scheme of Incentives 1993 and/or the Package Scheme of Incentives 2001. *Id.*

348 *Compare* Government of Maharashtra, *Package Scheme of Incentives 2013* at 4 para. 1.2, Exhibit VII-31 *with* Government of Maharashtra, *Package Scheme of Incentives 2007* (Mar. 30, 2007) at 2, para. 1.1, Exhibit VII-30.

interest on the deferred sales taxes.[349] In addition, the preferential "sales tax loans" provided under the program represent a direct transfer of funds within the meaning of Section 771(5)(D)(i) of the Act.[350]

ii. Benefit

The Department has also found that the SGOM's sales tax program confers a benefit under Section 771(5)(E) of the Act in the amount of sales tax not paid, in the amount of interest due but not paid on sales tax deferrals, and in the form of interest free loans with respect to the so-called "sales tax loans" provided under the program.[351]

iii. Specificity

The SGOM sales tax program is specific under Section 771(5A)(D)(iv) of the Act because the sales tax and related subsidies that it provides are limited to only those companies that are located in or make an investment in certain designated areas of Maharashtra.[352]

2. VAT Refunds Under The SGOM Package Scheme of Incentives

a. Factual Background

In addition to the sales tax program discussed above, the Department has also found that the SGOM provides VAT refunds to companies located in designated areas of the state under the

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[349] *Hot-Rolled Steel from India 2006 AR IDM* at 25; KPMG, "Maharashtra Industrial Policy 2013" at 4, Exhibit VII-32.

[350] *Hot-Rolled Steel from India 2006 AR IDM* at 25.

[351] *Id.*

[352] *Id.*

Maharastra Package Scheme of Incentives and the Maharashtra Industrial Policy.[353] The Department has found these VAT refunds to be countervailable and used by CRS producers.[354] The information reasonably available to Petitioners shows no change to this subsidy – which, like the sales tax program, continues in effect.[355]

b. The Subsidy Is Countervailable

i. Financial Contribution

As the Department has already determined, the VAT refunds subsidy constitutes a financial contribution under Section 771(5)(D)(ii) of the Act in the form of revenue foregone.[356]

ii. Benefit

Pursuant to Section 771(5)(E) of the Act and Section 351.510 of the Department's regulations, in the case of a subsidy (other than an export subsidy) that provides for the full or partial remission of an indirect tax, a benefit exists to the extent that the taxes paid by the firm are less than it would pay absent the subsidy.[357] In this case, the VAT refunds subsidy enables Indian producers and exporters of CRS located in eligible areas of Maharashtra to pay less VAT than they otherwise would absent the subsidy. Accordingly, the VAT refunds provide a benefit within the meaning of Section 771(5)(E) of the Act and Section 351.510 of the Department's

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353 *See, e.g., id.* at 25-26; CWP from India IDM at 27; KPMG, "Maharashtra Industrial Policy 2013" at 4, Exhibit VII-32.

354 *Hot-Rolled Steel from India 2008 AR IDM* at III.C.2 (Tata).

355 Government of Maharashtra, *Package Scheme of Incentives 2007* (Mar. 30, 2007) at 13, para. 4.2, Exhibit VII-30; *Package Scheme of Incentives 2013* at 16-18 para. 4.3 to 4.4, Exhibit VII-31.

356 *Hot-Rolled Steel from India 2006AR IDM* at 25-26; *CWP from India IDM* at 27.

357 19 U.S.C. § 1677(5)(E); 19 C.F.R. § 351.511.

regulations in the amount of the VAT refunded as compared to the amount of VAT that would otherwise be due.

iii. Specificity

As determined in prior cases, including *CWP from India*, the VAT refunds subsidy is specific within the meaning of Section 771(5A)(D)(iv) of the Act because it is limited to companies located in designated areas of Maharashtra.[358]

3. Electricity Duty Exemptions

a. Factual Background

The SGOM provides exemptions from electricity duties under the terms of the *Package Scheme of Incentives 1993*, the Maharashtra Industrial Policy, and similar schemes to companies located in certain designated areas of Maharashtra.[359] The Department has previously determined that this subsidy is countervailable and used by CRS producers.[360]

b. The Subsidy Is Countervailable

i. Financial Contribution

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[358] *Hot-Rolled Steel from India 2006AR IDM* at 25-26; *CWP from India IDM* at 27.

[359] Government of Maharashtra, *Package Scheme of Incentives 2013* at 18-19 para. 4.6, Exhibit VII-31; *Package Scheme of Incentives 2007* (Mar. 30, 2007) at 13, para. 4.2, Exhibit VII-30; KPMG, "Maharashtra Industrial Policy 2013" at 4, Exhibit VII-32.

[360] *Hot-Rolled Steel from India 2008 AR IDM* at III.C.3; *Hot-Rolled Steel from India 2006AR IDM* at 27; *CWP from India IDM* at 28.

As the Department has previously determined, the electricity duty exemptions provide a financial contribution in the form of revenue foregone within the meaning of Section 771(5)(D)(ii) of the Act.[361]

ii. Benefit

The Department has previously determined that the electricity duty exemptions provide a benefit under Section 771(5)(E) of the Act in amount of the electricity duties that are exempted.[362]

iii. Specificity

As determined in prior cases, including *CWP from India*, the electricity duty exemptions are specific within the meaning of Section 771(5A)(D)(iv) of the Act because they are limited to companies located in designated areas of Maharashtra.[363]

4. Waiving Of Loan Interest By SICOM

a. Factual Background

In prior proceedings, the Department has determined that the waiver of loan interest by SICOM on certain "intercorporate deposits" was countervailable.[364] Most recently, in *CWP from India*, the Department again countervailed this program, finding that there was no new information or evidence of changed circumstances regarding this program, and that there is evidence that steel products producers in Maharashtra continue to use it.[365] Accordingly, there is

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361 *Hot-Rolled Steel from India 2006AR IDM* at 27; *CWP from India IDM* at 28.

362 *Hot-Rolled Steel from India 2006 AR IDM* at 27; *CWP from India IDM* at 28.

363 *Hot-Rolled Steel from India 2006 AR IDM* at 27; *Hot-Rolled Steel from India 2008 AR IDM* at 37..

364 See *CWP from India IDM* at 31.

365 *Id.*

a reasonable basis to believe or suspect that CRS producers and exporters in Maharashtra use and benefit from this subsidy.

b. The Subsidy Is Countervailable

i. Financial Contribution

As the Department has previously determined, the waiver of loan interest on SICOM loans constitutes a financial contribution in the form of a direct transfer of funds within the meaning of Section 771(5)(D)(i) of the Act.[366]

ii. Benefit

The waiver of loan interest on SICOM loans constitutes a benefit within the meaning of Section 771(5)(E)(ii) of the Act equal to the difference between the interest paid on the SICOM loans and the amount of interest that the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market.

iii. Specificity

The waiver of loan interest on SICOM loans is specific within the meaning of Sections 771(5A)(D)(i) and 771(5A)(D)(iv) of the Act because the SGOM expressly limits access to the subsidy to a limited number of enterprises or industries and because it is limited to companies located in designated areas of Maharashtra.[367]

5. Investment Subsidies

a. Factual Background

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[366] *Id.*

[367] *Id.*

In *HRS from India* and *CWP from India,* the Department determined that the SGOM provides countervailable investment subsidies to companies, including CRS producers, located in designated regions of Maharashtra outside of the Bombay (Mumbai) and Pune metropolitan areas.[368]

b. The Subsidy Is Countervailable

i. Financial Contribution

As the Department has previously determined, the investment subsidies provided by the SGOM are a direct transfer of funds and therefore constitute a financial contribution within the meaning of Section 771(5)(D)(i) of the Act.[369]

ii. Benefit

The SGOM investment subsidies provide a benefit within the meaning of Section 771(5)(E) of the Act by funding or otherwise compensating or offsetting the cost of eligible investments in Maharashtra.[370]

iii. Specificity

As the Department has previously found, the SGOM investment subsidies are provided only to companies operating in designated areas of the state and are therefore specific under Section 771(5A)(D)(iv) of the Act.[371]

6. Infrastructure Assistance for Mega Projects Under The Maharashtra Industrial Policy of 2013 And Other SGOM Industrial Promotion Policies To Support Mega Projects

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368 *Hot-Rolled Steel from India 2008 AR IDM* at III.C.8; *CWP from India Inv. IDM* at 30-31.

369 *Hot-Rolled Steel from India 2008 AR IDM* at 39; *CWP from India Inv. IDM* at 30-31.

370 *Id.*

371 *Id.*

a. Factual Background

In *HRS from India* and *CWP from India*, the Department investigated and countervailed tax subsidies, grants, and other assistance provided to steel producers in Maharashtra classified by the SGOM as "Mega Projects," including CRS production projects.[372] These subsidies include infrastructure assistance to qualifying Mega Projects under the Maharashtra Industrial Policy of 2006.[373] The Maharashtra Industrial Policy 2013 also provides for customized incentive packages for megaprojects.[374] Moreover, the SGOM provides qualifying companies additional subsidies when making an investment totaling more than Rs. 50 crore.[375]

b. The Subsidy Is Countervailable

i. Financial Contribution

The Mega Project subsidies constitute a financial contribution within the meaning of Section 771(D)(i) of the Act in the form of a direct transfer of funds.[376]

ii. Benefit

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372 *Hot-Rolled Steel from India 2008 AR IDM* at III.C.6; *CWP from India Inv. IDM* at 29-30.

373 *Hot-Rolled Steel from India 2008 AR IDM* at 38; CWP from India Inv. IDM at 29-30.

374 KPMG, "Maharashtra Industrial Policy, 2013" at section 3, Exhibit VII-32.

375 *Hot-Rolled Steel from India 2008 AR IDM* at 38. A crore is a numerical unit equal to ten million.

376 *Hot-Rolled Steel from India 2008 AR IDM* at 38.

The Mega Project subsidies confer a benefit as defined by Section 771(5)(E) of the Act because they reduce the cost of making investments in Maharashtra for eligible companies and otherwise directly contribute funds to the companies.[377]

iii. Specificity

The Mega Project subsidies are specific within the meaning of Section 771(5A)(D)(i) of Act because they are expressly limited to select industries and enterprises as a matter of law.[378] In addition, the Mega Project subsidies are specific under Section 771(5A)(D)(iii) of the Act because the actual recipients of the subsidy are limited in number on an enterprise and industry basis.

7. Subsidies for Mega Projects Under the *Package Scheme of Incentives*

a. Factual Background

In 2007, the SGOM enacted an additional package scheme of incentives – the *Package Scheme of Incentives, 2007.*[379] It has been amended by the *Package Scheme of Incentives, 2013.*[380]

Chief among the new subsidies provided by these schemes, as well as the Maharashtra Industrial Policy 2013, is a customized package of various "incentives" to projects classified as

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[377] *Id.*

[378] *Id.*

[379] SGOM, Package Scheme of Incentives, 2007, Exhibit VII-30.

[380] Exhibit VII-31.

"Mega Projects" or "Ultra Mega Projects" by the SGOM.[381] Specifically, according to the *Package Scheme of Incentives, 2013*,

> The quantum of incentives within the approved limit will be decided by the High Power Committee under the chairmanship of Chief Secretary, Government of Maharashtra. The Infrastructure Committee under the chairmanship of the Chief Minister of Maharashtra will have the power to customize and offer special / extra incentives for the prestigious Mega Projects on a case to case basis.[382]

As noted above, the Department has found that CRS and other steel products producers located in Maharashtra report receiving subsidies as Mega Projects under the *Package Scheme of Incentives.*[383]

b. The Subsidy Is Countervailable

i. Financial Contribution

As with the other Mega Project subsidies that the Department has countervailed, the Mega Project subsidies provided under the *Package Scheme of Incentives* constitute a financial contribution within the meaning of Section 771(D)(i) of the Act in the form of a direct transfer of funds.[384]

ii. Benefit

The Mega Project subsidies provided under the *Package Scheme of Incentives* confer a benefit as defined by Section 771(5)(E) of the Act because they reduce the cost of making investments in Maharashtra for eligible companies and otherwise directly contribute funds to the companies.

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381 SGOM, Package Scheme of Incentives, 2013, at 5-6, 20, Exhibit VII-31; KPMG, Maharashtra Industrial Policy 2013, at section 3, Exhibit VII-32.

382 *Package Scheme of Incentives, 2013,* at 20, Exhibit VII-31.

383 *Hot-Rolled Steel from India 2008 AR IDM* at III.C.6; *CWP from India Inv. IDM* at 29-30.

384 *See Hot-Rolled Steel from India 2008 AR IDM* at 38.

iii. Specificity

The Mega Project subsidies provided under the *Package Scheme of Incentives, 2007* are specific within the meaning of Section 771(5A)(D)(i) of the Act because they are expressly limited to select industries and enterprises as a matter of law. Indeed, only those enterprises and industries that meet the eligibility criteria set forth in section 2.2 of the scheme and meeting certain levels of investment and employment are eligible.[385] In addition, there is a reasonable basis to believe or suspect that the Mega Project subsidies in question are specific under Section 771(5A)(D)(iii)(I) of the Act because the actual recipients of the subsidy are limited in number on an enterprise and industry basis – there cannot be very large numbers of "mega" and "ultra mega" projects. Moreover, because the Mega Project subsidies provided under the *Package Scheme of Incentives, 2013* are set by the SGOM on a "case by case basis," the subsidies are specific within the meaning of Section 771(5A)(D)(iii)(IV) of the Act since the manner in which the authority providing the subsidy has exercised discretion in the decision to grant the subsidy indicates that certain enterprises and industries are favored over others.

8. Other Subsidies Under The Package Scheme of Incentives, 2013

a. Factual Background

In addition to the Mega Project subsidies discussed above, under the *Package Scheme of Incentives, 2013,* and the *Package Scheme for Incentives, 2007,* the SGOM provides subsidies to companies that are not classified as "Mega Projects" but are located in designated areas of the state.[386] These subsidies include industrial promotion subsidies in the form of VAT and sales tax subsidies, noted above, as well as

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[385] *Package Scheme of Incentives, 2013.* at 5-6, Exhibit VII-31.

[386] SGOM, *Package Scheme of Incentives, 2013*, Exhibit VII-31.

- Interest subsidies;
- An exemption from electricity duty and/or power tariff for up to 15 years;
- Waiver of stamp duty;
- Royalty refunds for the purchase of minerals from mine owners within the State of Maharashtra for a period of five years;
- Subsidies to strengthen micro, small, and medium manufacturing enterprises; and.[387]

Since, as noted above, the Department has found CRS producer Tata has used subsidies under the *Package Scheme for Incentives*, the Department should investigate further.

b. The Subsidy Is Countervailable

i. Financial Contribution

The exemption, refund, and reduction of taxes, stamp duty, electricity duty, royalties, and octroi provided under the *Package Scheme of Incentives,* constitute financial contributions within the meaning of Section 771(5)(D)(ii) in the form of revenue foregone.[388] The subsidies to strengthen micro, small, and medium manufacturing enterprises and the "Special Incentives" constitute financial contributions in the form of grants and other direct transfers of funds under Section 771(5)(D)(i) of the Act.[389]

ii. Benefit

The exemption, refund, and reduction of taxes, stamp duty, electricity duty, royalties, and octroi provided under the *Package Scheme of Incentives* provide a benefit within the meaning of

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[387] *See id.* at 15-20; *Package Scheme of Incentives, 2007,* at 15-17, Exhibit VII-30.

[388] 19 U.S.C. § 1677(5)(D)(ii).

[389] *Id.* § 1677(5)(D)(i).

Section 771(5)(E) of the Act because they provide a benefit to the recipient by enabling it to reduce or eliminate its payments of taxes, tariffs, and duties.[390] The subsidies to strengthen micro, small, and medium manufacturing enterprises and the "Special Incentives" provide benefits within the meaning of Section 771(5)(E) of the Act because they provide additional funds to eligible companies.[391]

iii. Specificity

The subsidies provided under the *Package Scheme of Incentives* are specific within the meaning of Sections 771(5A)(D)(i) and (iv) of Act because they are expressly limited to specified enterprises and industries located within designated areas of Maharashtra.[392]

9. Provision Of Land For Less Than Adequate Remuneration

a. Factual Background

The Department has previously found that the SGOM provides land, including to CRS producer Tata, for less than adequate remuneration to certain enterprises and industries located outside the Bombay and Pune metropolitan areas.[393] Specifically, an agency of the SGOM – the Maharashtra Industrial Development Corporation ("MIDC") – obtains land in designated industrial areas of the state and makes it available to selected enterprises and industries on favorable terms, including long-term leases of 95 years where the annual lease payments are just Rs. 1 per plot of land provided.[394]

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390 *Id.* § 1677(5)(E).

391 *Id.*

392 *Id.* §§ 1677(5A)(D)(i) and (iv).

393 *See Hot-Rolled Steel from India 2008 AR IDM* at 28-29.

394 *See* Maharashtra Industrial Development Corporation Fact Sheet at 1, Exhibit VII-33.

b. The Subsidy Is Countervailable

i. Financial Contribution

The provision of land by the government constitutes a financial contribution in the form of the provision of a good as defined by Section 771(5)(D)(iii) of the Act.[395]

ii. Benefit

The provision of land provides a benefit to the extent that it is provided for less than adequate remuneration, as defined by Section 771(5)(E)(iv) of the Act.[396] As discussed above, the evidence reasonably available to Petitioners shows that the MIDC provides land through long-term leases for annual payments of just Rs. 1 per plot (1 rupee equals approximately 2 U.S. cents at current exchange rates). This certainly constitutes the provision of land for less than adequate remuneration.

iii. Specificity

The SGOM's provision of land for less than adequate remuneration is specific within the meaning of Section 771(5A)(D)(iv) because it is limited to companies purchasing land in industrial areas of the state designated by the MIDC for development.[397]

D. State Government Of Chhattisgarh Subsidy Programs

Chhattisgarh is one of India's major iron ore and steel producing regions. The SGOH is currently preparing land and "special purpose vehicles" to create four new "ultra mega steel projects."[398]

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395 *See Hot-Rolled Steel from India 2008 AR IDM* at 28-29.

396 *See id.*

397 *See id.*

398 "Four mega steel plants for Chhattisgarh," *Business Standard* (Aug. 6, 2014), Exhibit VII-34

In its administrative review of the hot-rolled steel from India countervailing duty order for 2008, the Department found that the SGOH provided nine subsidy programs under the Chhattisgarh Industrial Policy in effect from 2004 through 2009. As the respondent, Tata, which also produces CRS, provided no questionnaire response, the Department used adverse facts available to conclude that it had benefited from each of these programs.[399] Petitioners incorporate these findings here by reference, and ask that the Department investigate these programs, which would also benefit CRS production. These programs provide countervailable subsidy financial contributions and benefits, and are specific, for the reasons that the Department has previously described in its hot-rolled steel administrative review.

In addition, Petitioners note that SGOH has a new Industrial and Investment Policy 2009-2014, which continues many of these programs and adds new ones.[400] If the Department selects Tata or other CRS respondent with facilities in Chhattisgarh, Petitioners will make additional allegations regarding these programs, including customized special purpose vehicles for creation of large steel projects.

E. State Government Of Jharkhand Subsidy Programs

The state of Jharkhand produces about 20 to 25 percent of India's total steel output.[401] Thanks to its industrial policy, it increased steel output by 50 percent from 2001 through 2011, added capacity to make advanced products such as automotive grade steel, which is often galvanized, and plans to expand its large integrated steel mills.[402]

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[399] *Hot-Rolled Steel from India 2008 AR IDM* at III.E, Exhibit VII-35.

[400] Government of Chhattisgarh, *Industrial and Investment Policy 2009-2014*, Exhibit VII-36.

[401] Government of Jharkhand, *Jharkhand Industrial Policy 2012*, at sec. 1.4, Exhibit VII-37.

[402] *Id.*

In its administrative review of the hot-rolled steel from India countervailing duty order for 2008, the Department found that the State Government of Jharkhand ("SGOJ") provided thirteen subsidy programs under the Jharkhand State Industrial Policy ("JSIP") of 2001.[403] The respondent, Tata, which also produces CRS, provided no questionnaire response, so the Department used adverse facts available to conclude that Tata had benefited from each of these programs.[404] Petitioners incorporate these findings here by reference, and ask that the Department investigate these programs, which would also benefit CRS production. These programs provide countervailable subsidy financial contributions and benefits, and are specific, for the reasons that the Department has previously described in its hot-rolled steel administrative review.

In addition, Petitioners note that SGOJ has a new Industrial Policy 2012, which continues many of these programs and adds new ones.[405] Among others, the SGOJ has entered into memoranda of understandings to encourage mega industries to invest there, providing them with both land and electric power generation.[406] If the Department selects Tata or other CRS respondent with facilities in Jharkhand, Petitioners will make additional allegations regarding these programs, including customized special purpose vehicles for creation of large steel projects.

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[403] *Certain Carbon Steel Hot-Rolled Flat Products from India*, Issues and Decision Memorandum: Final Results and Partial Rescission of Countervailing Duty Administrative Review (2008), Section III.F (Jharkhand subsidy programs) (July 19, 2010), Exhibit VII-38.

[404] *Hot-Rolled Steel from India 2008 AR IDM* at III.F, Exhibit VII-38.

[405] Government of Jharkhand, *Jharkhand Industrial Policy 2012*, Exhibit VII-37.

[406] *Id.* at sec. 1.3.

F. State Government Of Karnataka Subsidy Programs

The State Government of Karnataka ("SGOK") also encourages steel production, and plans to develop its steel industry further, especially in the area of value-added steel products such as galvanized steel.[407]

In its administrative review of the hot-rolled steel from India countervailing duty order for 2008, the Department found that the SGOK provided 22 subsidy programs to steel production.[408] The respondent, Tata, which also produces CRS, provided no questionnaire response, so the Department used adverse facts available to conclude that Tata had benefited from each of these programs.[409] Petitioners incorporate these findings here by reference, and ask that the Department investigate these programs, which would also benefit CRS production. These programs provide countervailable subsidy financial contributions and benefits, and are specific, for the reasons that the Department has previously described in its hot-rolled steel administrative review.

In addition, Petitioners note that SGOK has a new Industrial Policy 2014-19, which continues many of these programs and adds new ones.[410] Among others, the SGOK plans to provide a "special package of incentives and concessions" to major producers of CRS and other high-value steel products that make large investments in the state.[411] If the Department selects

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407 Government of Karnataka, *Karnataka Industrial Policy 2014-19,* sec. 5.7.4, Exhibit VII-39.

408 *Hot-Rolled Steel from India 2008 AR IDM* at III.F (Karnataka programs), Exhibit VII-40.

409 *Id.*

410 Government of Karnataka, *Karnataka Industrial Policy 2014-19,* Exhibit VII-39.

411 *Id.* at sec. 5.7.4.

Tata or other CRS respondent with facilities in Karnataka, Petitioners will make additional allegations regarding these programs, including such special packages.

IV. Injury To The Domestic Industry

Petitioners allege that subsidized imports of CRS from India have caused, are causing, and are threatening to cause material injury to the domestic industry. The factual information in support of this allegation is provided to the Department and the International Trade Commission in Volume I of these Petitions.

V. Conclusion

As demonstrated above, Indian producers and exporters of CRS benefit from numerous and massive countervailable subsidies provided by the GOI and state and local governments in India. Accordingly, Petitioners request that the Department initiate a countervailing duty investigation of CRS from India.

TABLE OF EXHIBITS

Exhibit Number	Description
1.	Office of the United States Trade Representative, 2014 National Trade Estimate Report on Foreign Trade Barriers: India
2.	GOI Ministry of Steel, Major Policies (2012)
3.	GOI, National Steel Policy (2005)
4.	GOI, National Steel Policy (2012)
5.	GOI, Overview of the Steel Sector (Feb. 16, 2015)
6.	*Foreign Trade Policy of the Government of India*, effective June 5, 2012, Notification No. 1 (RE-2012)/2009-2014 ("Foreign Trade Policy")
7.	Central Board of Excise and Customs, *Central Excise Tariff 2012-2013*
8.	Tata Steel annual report 2013-14
9.	SAIL annual report 2011-12
10.	Eighth Schedule of the Income Tax Act, List of Industrially Backward States and Union Territories
11.	SEZ India website introduction (April 30, 2015)
12.	*Special Economic Zones Act, 2005*
13.	*The Special Economic Zone Rules* (incorporating amendments up to July 2010)
14.	Essar Steel Products and Processes -- Galvanized
15.	Memorandum of Understanding between NMDC Limited and Ministry of Steel, Government of India for 2012-2013
16.	NMDC Website, NMDC At A Glance
17.	GOI Ministry of Steel, Public Sector Undertakings under the administrative control of the Ministry
18.	NMDC, Community Management
19.	Impex Consultancy Services, "Incremental Exports Incentivisation Scheme" (April 18, 2013)
20.	SGAP, *Industrial Investment Promotion Policy 2010-2015*, G.O.Ms.No.61
21.	SGAP, *Industrial Investment Promotion Policy 2005-2010*, G.O.Ms.No.142
22.	SAIL targets Capital Expenditure of Rs. 12,000 crore during FY'13, SAIL Press Release, Sept. 21, 2012
23.	SAIL Offers to acquire Brahmani Steel in Andhra Pradesh, The Hindu Business Line, March 22, 2012
24.	APIIC Website, About Us
25.	APIIC Website, Objectives
26.	APIIC, *2010-2011 Annual Report*
27.	APIIC Allotment Regulations
28.	Gujarat State RTI Annual Return Information System Annual Return Form
29.	GIDC Website, Welcome Page
30.	Government of Maharashtra, *Package Scheme of Incentives 2007*
31.	Government of Maharashtra, *Package Scheme of Incentives 2013*

32.	KPMG, "Maharashtra Industrial Policy, 2013"
33.	Maharashtra Industrial Development Corporation Fact Sheet
34.	"Four mega steel plants for Chhattisgarh," *Business Standard* (Aug. 6, 2014)
35.	*Certain Carbon Steel Hot-Rolled Flat Products from India*, Issues and Decision Memorandum: Final Results and Partial Rescission of Countervailing Duty Administrative Review (2008), Section III.E (Chhattisgarh subsidy programs) (July 19, 2010)
36.	Government of Chhattisgarh, *Industrial and Investment Policy 2009-2014*
37.	Government of Jharkhand, *Jharkhand Industrial Policy 2012*
38.	*Certain Carbon Steel Hot-Rolled Flat Products from India*, Issues and Decision Memorandum: Final Results and Partial Rescission of Countervailing Duty Administrative Review (2008), Section III.F (Jharkhand subsidy programs) (July 19, 2010)
39.	Government of Karnataka, *Karnataka Industrial Policy 2014-19*
40.	*Certain Carbon Steel Hot-Rolled Flat Products from India*, Issues and Decision Memorandum: Final Results and Partial Rescission of Countervailing Duty Administrative Review (2008), Section III.F (Karnataka subsidy programs) (July 19, 2010)
41.	*Certain Oil Country Tubular Goods from India*, Petition for the Imposition of Antidumping and Countervailing Duties, Volume III (July 2, 2013)
42.	"Steel Authority of India's Cold Rolled Mill Plans Fly in the Face of Demand," agmetalminer.com (Nov. 21, 2013)
43.	"SAIL Unit Asked to Expedite Commissioning of Third Mill," *Press Trust of India* (Aug. 23, 2014)
44.	*Corrosion-Resistant Carbon Steel Flat Products from India*, Petition, Vol. I, Exh. I-8 (Producers/Exports of Corrosion-Resistant Steel from India
45.	*Corrosion-Resistant Carbon Steel Flat Products from India*, CVD Investigation Initiation Checklist
46.	*Corrosion-Resistant Carbon Steel Flat Products from India*, Petitioners' Response to the Department's June 9, 2015 Questionnaire Regarding Volume VII of the Petitions

July 28, 2015

DOC Inv. Nos. A-570-029, C-570-030, A-351-843, C-351-844, A-533-865, C-533-866, **A-588-873**, A-580-881, C-580-882, A-421-812, A-821-822, C-821-823, A-412-824
USITC Inv. Nos. 701-TA-___-__, and 731-TA-___ - ___
Total Pages: 474
Antidumping and Countervailing Duty Investigations

PUBLIC VERSION
Business Proprietary Information has been removed from the attached volumes of the Petitions at: Volume I, pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, 45, the Exhibit List, and Exhibits I-3 – I-4 and I-19 – I-15; and Volume VIII, pages 1, 2-5, 7-8, 10, and 17, the Exhibit List, and Exhibits VIII-1, VIII-3 – VIII-7, VIII-12 – VIII-13, VIII-17, and VIII-26

The Honorable Penny S. Pritzker
Secretary of Commerce
Attention: Enforcement and Compliance
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

Re: Petitions for the Imposition of **Antidumping** and Countervailing Duties: Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, **Japan**, the Republic of Korea, Netherlands, Russia, and the United Kingdom

Dear Secretary Pritzker and Secretary Barton:

On behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics Inc., and United States Steel Corporation (collectively "Petitioners"), we hereby submit to the U.S. Department of Commerce (the "Department") petitions for the imposition of antidumping and countervailing duties on certain cold-rolled steel flat products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom (the "Petitions") pursuant to sections 701, 702(b), 731, and 732(b) of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. §§ 1671, 1671a(b), 1673 and 1673a(b)). Pursuant to the Department's regulations codified at 19 C.F.R. § 351.202(c), we hereby certify that the Petitions and required copies are being filed today with the International Trade Commission (the "Commission").

At the Department, for each of the Petitions, we are filing Volume I (Common Issues and Injury) matched with the corresponding volume that contains the country-specific information on sales at less-than-fair value or the provision of countervailable subsidies. Information pertaining to the allegations of sales at less-than-fair value for the People's Republic of China, Brazil, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom is contained in Volumes II, IV, VI, VIII, IX, XI, XII, and XIV, respectively. Information concerning the countervailable subsidies provided by the People's Republic of China, Brazil, India, the Republic of Korea, and Russia is contained in Volumes III, V, VII, X, and XIII, respectively.

At the Commission, pursuant to instructions from Secretary Barton, we are filing an original and eight copies of: the narrative portion of the business proprietary version of Volume I (Common Issues and Injury); the narrative portion of the business proprietary version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). We are also filing an original and four copies of: the narrative portion of the public version of Volume I (Common Issues and Injury); the narrative portion of the public version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). Finally, we are filing on CD-ROM complete sets of the business proprietary and public versions of the exhibits to all volumes of these Petitions in PDF format compatible with the Commission's EDIS system.

On behalf of Petitioners, we hereby request proprietary treatment for information designated as proprietary in these Petitions pursuant to the Department's regulations codified at 19 C.F.R. §§ 351.202(d) and 351.304 and the Commission's rules codified at 19 C.F.R. § 201.6(b). Business proprietary information is enclosed in single brackets ("[ ]").

The information in Volume I of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

(1) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): Exhibit I-13.

(2) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): Exhibit I-14.

(3) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section)* (19 C.F.R. § 351.105(c)(5)): pages 31-32 and Exhibits I-4, I-12, and I-14.

(4) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the*

destination or designation would reveal the name) (19 C.F.R. § 351.105(c)(6)): Exhibit I-14 and I-9.

(5) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): Exhibit I-14.

(6) *The position of a domestic producer or workers regarding a petition* (19 C.F.R. § 351.105(c)(10)): pages 3 and 35.

(7) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, and 45; and Exhibits I-3, I-10 – I-13, and I-15.

The information in the attached Volume VIII of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

(1) *Business or trade secrets concerning the nature of a product or production process* (19 C.F.R. § 351.105(c)(1)): Exhibits VIII-1, VIII-13, and VIII-17.

(2) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): pages 10 and 17, and Exhibits VIII-17 and VIII-26.

(3) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): pages 3-4, and Exhibits VIII-3 – VIII-6 and VIII-12.

(4) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): pages 2-3 and 7-8; the Volume VIII Exhibit List; and Exhibits VIII-1, VIII-3, VIII-5, and VIII-13.

(5) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 1, 3-5, and 7-8; the Volume VIII Exhibit List; and Exhibits VIII-1, VIII-3 – VIII-7, and VIII-13.

The single-bracketed business proprietary information in the attached Volumes I and VIII of these Petitions identified above is entitled to proprietary treatment in accordance with the Department's regulations codified at 19 C.F.R. § 351.304(a) and the Commission's rules codified at 19 C.F.R. § 201.6(b).[1] Information for which proprietary treatment is requested is not available to the public. Public disclosure of this information would result in serious and substantial harm to the competitive position of the sources of the information and would impair

[1] Volumes III, V, VII, X, and XIII of the Petitions contain no business proprietary information.

the ability of the Department and the Commission to obtain information necessary to fulfill their statutory functions. The requisite certifications that substantially identical information is not available to the public are set forth as attachments to this letter, in accordance with the Commission's rules codified at 19 C.F.R. § 201.6(b).

Pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(b), Petitioners agree in principle to permit disclosure of the single-bracketed business proprietary information contained in these Petitions under an appropriately drawn administrative protective order ("APO"). Petitioners, however, reserve the right to comment on all APO applications prior to disclosure.

This public version is being filed simultaneously with the business proprietary version of these Petitions pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(c)(1) and the Commission's rules codified at 19 C.F.R. § 201.8(f). This public version contains a public summary of the single-bracketed business proprietary information in sufficient detail to permit a reasonable understanding of the contents of these Petitions.

Should you have any questions regarding these Petitions, please contact the undersigned.

Respectfully submitted,

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Total Pages: 274
Investigation
Petitioner's Business Proprietary Information has been removed from pages 1-5, 7-8, 10, 17, The Exhibit List and Exhibits 1, 3-7, 12-13, 17 and 26
PUBLIC VERSION

BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION
UNITED STATES DEPARTMENT OF COMMERCE AND THE
UNITED STATES INTERNATIONAL TRADE COMMISSION

CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS FROM JAPAN

PETITION FOR THE IMPOSITION
OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED

VOLUME VIII

INFORMATION RELATING TO
JAPAN – ANTIDUMPING DUTIES

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July 28, 2015

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Table of Contents

I. INFORMATION RELATING TO DUMPING

The application of the Department of Commerce's ("the Department") standard dumping methodology shows that producers and/or exporters in Japan sold, or offered for sale, cold-rolled steel flat products ("cold-rolled steel") in the United States at less than normal value.

Petitioners used export price as the basis for U.S. price because Japanese producers and/or exporters typically sell either directly to unrelated purchasers in the United States or through unaffiliated trading companies to unrelated purchasers in the United States. Petitioners used publicly available statistics relating to consumption entries of cold-rolled steel to obtain pricing at which Japanese producers sold and/or entered subject merchandise into the United States. Because this statistical data is based upon "customs value" (*i.e.*, a price that excludes items such as international freight, insurance, and brokerage and handling), the price obtained from the official consumption import statistics represents most of the elements of an ex-factory export price ("ex-factory EP"). Petitioners made other adjustments to the offered prices – where warranted.

Petitioners [Narrative

Narrative

Country

Country

Narrative

]. Consequently, as permitted by the Tariff Act of 1930 (the "Tariff Act"), Petitioners are basing normal value ("NV") on constructed value ("CV"). Petitioners' methodology for calculating CV is provided *infra*.

Petitioners next compared the ex-factory U.S. price with the calculated NV for identical or similar merchandise. In making these comparisons, Petitioners were required to convert the

Japanese producer's NVs to U.S. Dollars using the U.S. Dollar – Japanese Yen exchange rate in effect during the POI (July 1, 2014 through June 30, 2015). Petitioners then subtracted the U.S. price from the calculated NV and divided the difference by the U.S. price to determine the dumping margin.

II. EXPORT PRICE ("EP")

Japanese producers of cold-rolled steel typically sell the merchandise directly to end users, service centers, or trading companies located in the United States. Domestic manufacturers of cold-rolled steel generally learn of Japanese price offerings in the U.S. market during the course of negotiating sales with their customers, or through intelligence gathered via database services.[1] Domestic producers generally price their cold-rolled steel for sale in the U.S. market based on a number of factors, including the type/grade of the steel, the thickness or gauge of the sheet itself, the width of the coil (premiums may be charged for extra-wide or extra-narrow coils), and whether the product has premium features (*e.g.* deep drawing quality). Petitioners understand that Japanese producers take into account similar considerations when selling goods within Japan and when selling goods to the United States.

A. U.S. Price

Petitioners obtained the following transaction information based on official U.S. import statistics relating to consumption entries of cold-rolled steel during the POI.

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1 *See* Declaration of [Name], attached at **Exhibit VIII-1**.

Obs.	Product	Grade	Sheet Thickness	Coil Width	Qty. Entered	Price Per Metric Ton
US-801	CR Coil	Carbon Quality, not high strength, not annealed	Between 0.361mm and 0.50 mm	At least 600mm	3,277 MT	$627.45

Information concerning this April 2015 consumption entry through the Laredo, Texas, customs district is found in **Exhibit VIII-2**. Petitioners [Narrative Source Port State Country Date].[2] The [City].[3] [City],[4] this entry would have been entered [City City]. As such, 100 percent of the cold-rolled steel that entered this customs district during the relevant period [Narrative].[5]

The [Company Narrative].[6] Petitioners however determined that [City Location Location

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2 *See* [Source], attached at **Exhibit VIII-3**.

3 *See id.* [Description].

4 *See* U.S. Customs and Border Protection agency port of entry information, attached at **Exhibit VIII-4**. [City City].

5 *See* Analysis of JFE shipments/offers, attached at **Exhibit VIII-5**.

6 *See* **Exhibit VIII-3**.

City City].[7] Petitioners examined information available from the industry publication *Iron and Steel Works of the World* ("*ISWW*")[8] and found that [Company Narrative].[9] More importantly, [City Location].[10] Consequently, Petitioners believe that JFE Steel (either on its own or through its Daiwa Steel subsidiary) is the entity that produced and exported this subject merchandise to the United States.[11]

As Petitioners believe that JFE's consumption entry of subject merchandise was made based upon a sale of goods to one or more unrelated U.S. customers prior to importation, export price ("EP") is the appropriate basis for U.S. price.[12] In order to calculate the ex-factory export prices for U.S. sales, Petitioners deducted from the quoted price the costs associated with exporting and delivering the product to customers in the United States, where such costs were incurred by the foreign producer and the quoted sales prices include such costs.[13] These costs *normally* consist of foreign inland freight incurred from the Japanese mill to the port of exportation; country of

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7 *See id. See also* Map [City], attached at **Exhibit VIII-6**.

8 *See* Japan industry analysis, attached at **Exhibit VIII-7**.

9 *See* Profile of JFE Steel Corporation, attached at **Exhibit VIII-8**.

10 *See* **Exhibit VIII-7**.

11 Petitioners note that it is possible that the *actual* producer of the goods may be Daiwa Steel Corp. ("Daiwa"). [Company Narrative]. However, as noted by *ISWW*, and by media reports, the overwhelming majority of Daiwa's shares are owned by JFE Steel – making Daiwa an affiliated subsidiary of JFE Steel. *See id. See also* Corporate information regarding JFE Steel and Daiwa Steel Corporation, attached at **Exhibit VIII-9**.

12 *See* 19 U.S.C. § 1677a(c).

13 *See* Calculation of Ex-Factory U.S. Price, attached at **Exhibit VIII-12**.

manufacture brokerage and handling charges; ocean freight and marine insurance incurred from the Japanese port of exportation to the U.S. port of importation; U.S. port, wharfage, and/or handling fees; and customs duties paid upon entry of the merchandise into the United States. The following discussion details the calculation of relevant moving expenses.

B. Movement Expenses and Related Expenses

1. Foreign Inland Freight and Brokerage and Handling

While the sale made by JFE is based upon official U.S. consumption import data, Petitioners note that official U.S. import statistics base movement expense data on reported expenses "incurred in bringing the merchandise from alongside the carrier at the port of exportation in the country of exportation and placing it alongside the carrier at the first port of entry in the United States."[14] Based upon this, it is clear that foreign inland freight expenses and handling expenses are not captured in official U.S. import statistics and must be calculated separately.[15]

Under normal circumstances, Petitioners would deduct country of manufacture movement expenses such as foreign inland freight (truck or rail or barge), and distribution warehouse expenses. However, as is [Source] and from JFE's corporate profile, JFE appears to have easy access to port facilities that are capable of handling oceangoing vessels (*i.e.*, a distance of less than one mile from its production facilities to

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14 *See* http://www.census.gov/foreign-trade/guide/sec2.html#imp_charges, Information valuation based upon import statistics: U.S. Department of Commerce, Bureau of the Census, Guide to Foreign Trade Statistics, attached at **Exhibit VIII-10**.

15 This conclusion is confirmed by the U.S. Customs and Border Protection Agency, which stipulates that freight charges reportable on Customs Form 7501 at Block 32 are to be "port to port" based expenses. *See* http://www.cbp.gov/sites/default/files/documents/CBP%20Form%207501_Instructions.pdf, Information valuation based upon import statistics: U.S. Customs and Border Protection agency, CBP Form 7501 instructions attached at **Exhibit VIII-10**.

port facilities located in Mizushima, Okayama prefecture).[16] Given the proximity of the company's facilities to its port operations, Petitioners have, for purposes of this Petition, excluded these costs from its calculation of the ex-factory EP.

While JFE is located close to an export port – Mizushima – any company incurs certain expenses when exporting goods from Japan via ocean vessel. Petitioners obtained publicly available brokerage and handling expense information from the World Bank publication *Doing Business in Japan 2015* ("*DBJ 2015*"). Utilizing *DBJ 2015*, Petitioners calculated the country of manufacture brokerage and handling expenses that JFE would incur in shipping subject merchandise to a customer located outside of Japan. According to *DBJ 2015*, Japanese companies are likely to incur up to US$470.00 in brokerage and handling fees.[17] This rate was converted to a price per metric ton by dividing the brokerage and handling fee rate by 10 metric tons, the standard container load specified by the methodology outlined in *DBJ 2015*.[18] The cost per metric ton was then subtracted from the transacted U.S. consumption entry price.[19]

C. Computation of Ex-Factory EP

The calculations described above resulted in the following ex-factory EPs for cold-rolled steel offered for sale by JFE in the United States:

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16 *See id.*

17 *See* Calculation of brokerage and handling expenses, attached at **Exhibit VIII-11**.

18 *See id.*

19 *See* **Exhibit VIII-12**.

Obs.	Product	Grade	Sheet Thickness	Coil Width	Qty. Entered	Ex-Factory EP
US-801	CR Coil	Carbon Quality, not high strength, not annealed	Between 0.361mm and 0.50 mm	At least 600mm	3,277 MT	$580.45

A detailed calculation of the ex-factory EP for imports of the subject merchandise from Japan is provided in **Exhibit VIII-12.**

III. EX-FACTORY NORMAL VALUE

The preferred method for determining the NV of imported product is to examine sales or offers of sales of the identical or similar product in the home market of the exporting country. As noted above, Petitioners [Narrative Company]. Petitioners [Narrative]. The Department's regulations permit the agency to calculate NV "by constructing a value based on the cost of manufacture, selling general and administrative expenses, and profit" where "no contemporaneous sales of comparable merchandise are available."[20] Because Petitioners do not have access to the pricing at which JFE sold subject merchandise to customers in the home market during the POI, Petitioners relied upon constructed value to calculate JFE's NV as it pertains to subject merchandise.

Petitioners used the Department's standard methodology to calculate the COP for the subject merchandise produced by JFE in Japan. Because Petitioners did not have access to JFE's actual production costs, as the best information reasonably available, they used the cold-rolled steel production costs and consumption rates for [Company] (the "Japanese Surrogate") for [Period

20 19 C.F.R. § 351.405(a) (2015).

].[21] Petitioners chose this time period because it corresponds to the quoted price for cold-rolled steel during the POI, and provides the most recent information reasonably available to Petitioners. Like JFE, the Japanese Surrogate is an integrated steel mill with capabilities that are similar to those of JFE. Further, the Japanese Surrogate produces cold-rolled steel of varying sizes and grades that include those offered for sale by JFE to its U.S. customers. This is the best information reasonably available to Petitioners at this time.

The manufacturing process for cold-rolled steel typically includes six processes, namely: 1) molten iron production and coke production, 2) liquid steel production, 3) slab casting, 4) hot strip rolling, 5) pickling and oiling, and 6) cold rolling. A description of each of these processes is set forth below.

In the molten iron production process, molten iron is produced from iron ore in a blast furnace by combining iron ore pellets with coke and coal injection in a high temperature environment. The major direct cost elements for this process are coke and iron ore pellets.

Molten iron from the previous process is combined with scrap and miscellaneous additives in a basic oxygen furnace in the liquid steel production. The metallic charge is converted to steel by the addition of fluxes, such as quicklime and limestone, to absorb impurities, and by blowing oxygen through the molten metal. The steel is then tapped into a ladle refining furnace where precise variations in the metallurgical content of the steel are made. Major cost inputs in this process include the molten iron from the previous process and steel scrap. Additives including aluminum ingots, fused calcium aluminate, ferromolybdenum, ferromanganese, ferrosilicon, silicon carbide, calcium silicon wire, and calcined petroleum coke may also be used in a basic oxygen furnace.

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21 *See* Declaration of [Name], attached at **Exhibit VIII-13**.

Liquid steel is converted to a solid form in the slab casting stage. During this stage of production, liquid steel is continuously cast into slabs by tapping the liquid steel from the ladle furnace into a continuous caster. The slabs are then shot blasted with abrasive grit or shaved, inspected using non-destructive tests, and surface ground (if necessary) to remove any imperfections.

Semifinished slabs are converted to finished hot-rolled coils in the hot-strip rolling process. The semifinished slab is first reheated in a reheat furnace in order to increase its formability. During heating, a scale (oxide layer) forms on the slab surface, which must be systematically removed. The slab is then rolled into the required shape, dimension, and surface quality. The output of the hot strip rolling process is hot-rolled steel.

The hot-rolled coil then passes through the pickling and oiling line to produce pickled and oiled sheet. There, the hot-rolled steel is prepared for cold-rolling by passing it through an acidic bath to remove surface contaminants. The surface of the metal is then lightly coated with oil.

Finally, cold rolling is accomplished by processing steel strip through a series of tandem rolling mill stands. Hot-rolled and pickled coils are fed into the cold rolling mill from an entry-end reel and progressively reduced in thickness in each stand to achieve the final desired thickness as the strip exits the last stand. After the last stand, the strip is recoiled. At this point, the strip has been converted to a cold-rolled steel coil that is ready for packing and shipment to the customer.

Moving materials among the various production stages incurs additional costs. Internal movement expenses include moving scrap from the scrap yard to the mill, moving slabs from an inventory yard to the reheat furnace area, and moving intermediate hot bands or cold-rolled steel coils from the various areas to downstream processing areas. In addition to product movement and handling expenses, producers incur expenses related to bundling and packaging, and subsequent inventory holding, until the finished goods are loaded on the mode of carriage for transportation to the customer.

Finally, in producing subject merchandise, certain materials are consumed in the production process, but are not physically incorporated in the finished goods. Nonetheless, these items are integral to the production process and are consumed at such a rate that they represent a large material cost in the overall production process. The production costs [

Narrative

Narrative

].[22] Petitioners first calculated the amount (*i.e.*, consumption rate) and value of each production input used by the Japanese Surrogate to make cold-rolled steel that is similar or identical to the merchandise that was likely imported by JFE in the United States.[23] Petitioners determined the average cost for most of these inputs in Japan using the most recent publicly available information. For production inputs for which no Japanese cost information was publicly available, Petitioners used the actual costs of the Japanese Surrogate. Based on this information, Petitioners calculated how much it would cost JFE to manufacture the subject merchandise in Japan.

A. Adjustments for Inflation and Exchange Rates

For certain inputs, Petitioners could not obtain cost figures in Japanese currency or for the period for which Petitioners had cost data. Where an input price was from a period preceding the POI, the period for which Petitioners had cost data, Petitioners adjusted for inflation using the consumer price index ("CPI") for Japan as reported by Statistics Japan, a Japanese government

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22 *See id.*

23 *See id.*

agency that collects and disseminates micro- and macro-economic data in Japan.[24] Where the quoted input value was denominated in U.S. Dollars, Petitioners adjusted for inflation using the consumer price index as reported by the United States Department of Labor, Bureau of Labor Statistics ("BLS").[25]

In order to make appropriate inflation adjustments, Petitioners divided the POI-wide inflation index by the inflation index from the period during which the cost item was obtained, and then multiplied the input price by the index to arrive at an inflation-adjusted price.

Petitioners calculated the entire COP in Japanese Yen pursuant to Department practice. For input prices denominated in U.S. Dollars, Petitioners converted the price into Yen using the simple average of the daily U.S. Dollar-Japanese Yen exchange rate for the POI as reported by the U.S. Federal Reserve.[26]

Petitioners' COP calculations for all stages of subject merchandise production are included in **Exhibit VIII-17**.

B. Cost of Production Methodology

Petitioners calculated the costs of raw materials, labor, energy, and other expenses to determine the per-metric ton cost of making one metric ton of finished cold-rolled steel. **Exhibit VIII-17** provides a detailed calculation of the total costs incurred. **Exhibit VIII-18** provides a summary table of all of the inputs used in the production process.

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24 *See* Consumer price index – Japan, attached at **Exhibit VIII-14**.

25 *See* Consumer price index – United States, attached at **Exhibit VIII-15**.

26 *See* Federal Reserve: U.S. Dollar – Japanese Yen daily exchange rates, attached at **Exhibit VIII-16**.

1. Material inputs

In general, Petitioners developed unit factor costs for material inputs using the Japanese import prices for material inputs as reported by the United Nations trade statistics database, which is also known as COMTRADE. Petitioners obtained COMTRADE data for the period July 2014 to May 2015, which represents the most recent time period for which such data are available. A summary of the unit factor costs for material inputs that are calculated based on these COMTRADE data is set forth in **Exhibit VIII-18**; raw source data appears in **Exhibit VIII-19.** Consistent with the Department's policy on import data from non-market economies (*e.g.*, China and Vietnam) and from countries that provide generally available export subsidies (*e.g.*, India, Indonesia, South Korea, and Thailand), Petitioners have excluded data from these countries in their calculation of material costs. These are the best facts reasonably available to Petitioners.

Petitioners were unable to obtain suitable data (*e.g.*, quantifiably significant data was unavailable) for certain inputs used in the production of subject merchandise. In these cases, Petitioners were compelled to rely on alternative sources of data to ensure the most accurate calculation of NV.

With respect to direct reduced iron ("DRI"), there are virtually no imports of DRI into Japan during the POI. As best information available, Petitioners utilized Japanese imports of pig iron – a separate type of concentrated iron unit.[27]

Nearly all imports of lime that is used as a flux in steel production were from China – an NME – during the POI. Petitioners sought to find data for a period that precedes the POI but found that while there were imports from one or two countries, the Japanese import data included only

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[27] *See* Material Inputs Worksheet, attached at **Exhibit VIII-18** and Material Inputs cost calculations from United Nations COMTRADE, attached at **Exhibit VIII-19**.

values and not quantities. As an alternative and as the best information reasonably available, Petitioners have utilized Japanese exports of lime during the POI.[28]

For nitrogen and oxygen gases, Petitioners obtained pricing from a U.S.-based company that offers bulk gases for sale to industrial users. The pricing is based on offers of tanks of gas containing 100 cubic feet of gas. Because the Japanese Surrogate measures its gas usage on a kilograms per ton basis, Petitioners converted the reported price per 100 cubic feet to a price per kilogram denominated in U.S. Dollars utilizing standard weight conversions for nitrogen and oxygen.[29] Petitioners then converted this value to Japanese Yen utilizing the currency exchange rate in effect during the POI. Similarly, Petitioners were unable to utilize pricing for argon and hydrogen gas. Petitioners sought to find a viable alternate in other countries but have been unable to do so. For purposes of this filing, Petitioners have omitted the cost factors related to these two inputs.

Finally, Petitioners were unable to obtain import statistics, export statistics, or domestic pricing on steam, which is used as a supplemental source of heat in cold-rolled steel production. As a result, Petitioners obtained information on the heat content of steam and natural gas as the best information reasonably available.[30] Petitioners found that the average energy content for heated steam is approximately 1,188 British Thermal Units ("BTU") per pound; the energy content of natural gas is approximately 23,000 BTUs per pound. Based on these differences, Petitioners calculated a percentage efficiency for steam of roughly 5.2 percent (a ratio of 19.36:1). Petitioners

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28 *See* Alternate input calculations, attached at **Exhibit VIII-20**.

29 *See id.*

30 *See id.*

then divided the published natural gas price available in Japan by the ratio to yield a price per mmBTU (1,000,000 BTUs) for steam. This is the best information available to Petitioners.

2. Labor

Petitioners could not obtain data on the amount of labor that JFE uses to produce one ton of cold-rolled steel. Therefore, Petitioners used the average number of production hours that the Japanese Surrogate requires to produce one net ton of cold-rolled steel. Petitioners obtained hourly labor cost information for Japanese industry workers denominated in U.S. Dollars from the U.S. Department of Labor, U.S. Bureau of Labor Statistics.[31] Petitioners adjusted the price for inflation using the U.S. consumer price index inflator that is applicable to the period in which the data was obtained – 2012. *See* **Exhibit VIII-17** and **Exhibit VIII-21**.

Petitioners multiplied the inflation-adjusted labor cost (once converted to Japanese Yen) by the Japanese Surrogate's labor usage rate to calculate the total labor cost to produce one net ton of cold-rolled steel.[32] These are the best facts reasonably available to Petitioners.

3. Energy

Petitioners also could not obtain JFE's actual energy costs for producing cold-rolled steel. Instead, Petitioners obtained the publicly available electricity tariff rates that industrial customers would pay as reported by the International Energy Agency publication *Energy Prices and Taxes*.[33] These electricity rates, which were in effect during fourth quarter 2013, were adjusted for inflation to account for costs incurred during the POI using the Japanese consumer price index inflator. *See*

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[31] *See* U.S. Department of Labor, calculation of Japanese labor costs, attached at **Exhibit VIII-21**. This rate includes benefits, bonuses and other costs that an employer must absorb in paying its production-related workers.

[32] *See* Cost of Production calculations, attached at **Exhibit VIII-17**.

[33] *See* Calculation of electricity costs, attached at **Exhibit VIII-22**.

Exhibits VIII-22 and **VIII-17**. Petitioners multiplied the average Japanese electricity rate by the average amount of electricity that the Japanese Surrogate needs to produce one metric ton of cold-rolled steel.[34] These are the best facts reasonably available to Petitioners.

Petitioners could not access JFE's actual natural gas costs. As a result, Petitioners obtained industrial natural gas costs in Japan based on data published in the World Bank publication *Commodity Markets Outlook*.[35] This pricing was in effect during the entirety of the POI. Petitioners multiplied the average Japanese natural gas rate (once converted to Japanese Yen) by the average amount of natural gas that the Japanese Surrogate needs to produce one metric ton of cold-rolled steel.[36] These are the best facts reasonably available to Petitioners.

Finally, Petitioners obtained information on the average water tariff that customers located in the Osaka region of Japan would pay in procuring water supply services.[37] The water tariff rate, which was in effect during calendar year 2011 and denominated in U.S. Dollars, was adjusted for inflation to account for costs incurred during the POI using the U.S. consumer price index inflator that is applicable to period in which the data was obtained. *See* **Exhibits VIII-24** and **VIII-17**. Petitioners multiplied the average Japanese water tariff rate (converted to Japanese Yen) by the average amount of water that the Japanese Surrogate needs to produce one metric ton of cold-rolled steel.[38] These are the best facts reasonably available to Petitioners.

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34 *See* **Exhibit VIII-17**.

35 *See* Calculation of natural gas costs, attached at **Exhibit VIII-23**.

36 *See* **Exhibit VIII-17**.

37 *See* Calculation of water costs, attached at **Exhibit VIII-24**.

38 *See* **Exhibit VIII-17**.

C. Total Cost of Production

Petitioners added the total production costs from each stage of the production process to yield a total cost of goods sold ("COGS") net of depreciation.[39] Per the Department's regulations and the statute, Petitioners added additional expenses relating to overhead, selling, general and administrative ("SG&A") expenses, and profit. These calculations are described herein.

1. Overhead

In order to calculate the financial ratios for manufacturing cold-rolled steel, Petitioners relied on the audited, consolidated fiscal year 2013-2014 financial statement of JFE, which are publicly available online.[40] Petitioners multiplied the Japanese Surrogate's calculated COGS ("Total Materials, Labor & Energy") by JFE's fixed overhead ratio as derived from the company's financial statements to arrive at its fixed overhead expense.[41] Petitioners added this expense to the calculated COGS to arrive at the total cost of manufacturing ("COM") for JFE.[42]

2. SG&A and Interest Expenses

As with overhead, Petitioners are not privy to JFE's actual SG&A and interest expenses for the production and sale of cold-rolled steel. As an alternative, Petitioners calculated expected expenses based on the unconsolidated financial experience of JFE.[43] With respect to SG&A, Petitioners multiplied the Japanese Surrogate's calculated total COM by JFE's SG&A ratio as derived from the company's financial statements to arrive at its SG&A expense.[44] Petitioners

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39 *See id.*

40 *See* Fiscal year 2014 financial statements of JFE and calculation of financial ratios, attached at **Exhibit VIII-25.**

41 *See* **Exhibit VIII-17**.

42 *See id.*

43 *See* **Exhibit VIII-25.**

44 *See* **Exhibit VIII-17.**

multiplied the Japanese Surrogate's calculated total COM by JFE's company-wide interest expense ratio as derived from the company's financial statements to arrive at the interest expense for JFE.[45] Petitioners added the calculated SG&A expense and interest expense for JFE to the previously calculated total COM to arrive at a total COP (excluding profit and packing expenses) for JFE.[46]

3. Profit

In order to establish the profit ratios for manufacturing cold-rolled steel, Petitioners again relied on the fiscal year 2013-2014 financial statements of JFE.[47] Petitioners multiplied JFE's company-wide reported profit for fiscal year 2013-2014 (profit before tax) by the total COP calculated to yield a fully loaded NV.[48]

D. Final Constructed Value and Normal Value

As noted above, Petitioners took the calculated total COP and adjusted it for selling expenses, overhead expenses, interest expenses, and estimated profit to yield CVs for JFE. These CVs, in turn, represent the NVs for JFE.[49]

Observation No.	Producer	Calculated NV
JP-801	JFE	[131,131]

IV. LESS THAN NORMAL VALUE COMPARISON ("DUMPING MARGINS")

In calculating dumping margins for Japan, Petitioners matched each U.S. transaction with the average corresponding NV for merchandise identical or most similar to the transaction.

45 *See id.*

46 *Id.*

47 *See* **Exhibit VIII-25**.

48 *Id.*

49 *See* **Exhibit VIII-17**.

Petitioners first determined the U.S. Dollar value of the calculated NV for JFE utilizing the U.S. Dollar–Japanese Yen exchange rate in effect during the POI.[50] Petitioners then compared the U.S. price for cold-rolled steel produced by JFE to the NV for identical products. These comparisons demonstrate that JFE sold or offered to sell subject merchandise in the United States for less than NV. **Exhibit VIII-26** provides a dumping margin calculation for each transaction by subtracting the ex-factory EP for each offer from the adjusted CV corresponding to the same company and dividing the difference by the ex-factory EP. These calculations resulted in an estimated dumping margin of 82.58 percent for JFE.[51]

V. CONCLUSION

Petitioners request that antidumping duties be imposed on imports of cold-rolled steel from Japan in an amount sufficient to offset the unfair pricing described above.

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50 *See* **Exhibit VIII-16.**

51 *See* Calculation of Dumping Margins: Constructed Value, attached at **Exhibit VIII-26.**

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BUSINESS PROPRIETARY INFORMATION HAS BEEN DELETED

VOLUME VIII EXHIBITS

Exhibit No.	Title	Status
VIII-1	Declaration of [Name]	BPI
VIII-2	Official U.S. import statistics	Public
VIII-3	[Source]	BPI
VIII-4	U.S. Customs and Border Protection agency port of entry information	BPI
VIII-5	Analysis of JFE shipments/offers	BPI
VIII-6	Map [Narrative]	BPI
VIII-7	Japan industry analysis • List of Japanese producers of cold-rolled steel • Excerpts from *Iron and Steel Works of the World 2014*	BPI
VIII-8	Profile of JFE Steel Corporation	Public
VIII-9	Corporate information regarding JFE Steel and Daiwa Steel Corporation	Public
VIII-10	Information valuation based upon import statistics • U.S. Department of Commerce, Bureau of the Census, *Guide to Foreign Trade Statistics* • U.S. Customs and Border Protection agency, CBP Form 7501 instructions	Public
VIII-11	Calculation of brokerage and handling expenses	Public
VIII-12	Calculation of Ex-Factory U.S. Price	BPI
VIII-13	Declaration of [Name]	BPI
VIII-14	Consumer price index – Japan	Public
VIII-15	Consumer price index – United States	Public
VIII-16	Federal Reserve: U.S. Dollar – Japanese Yen daily exchange rates	Public
VIII-17	Cost of Production calculations	BPI

VIII-18	Material Inputs Worksheet	Public
VIII-19	Material Inputs cost calculations from United Nations COMTRADE	Public
VIII-20	Alternate input calculations: • Lime • Nitrogen and oxygen • Steam	Public
VIII-21	U.S. Department of Labor, calculation of Japanese labor costs	Public
VIII-22	Calculation of electricity costs	Public
VIII-23	Calculation of natural gas costs	Public
VIII-24	Calculation of water costs	Public
VIII-25	Fiscal year 2013-2014 financial statements of JFE and calculation of financial ratios	Public
VIII-26	Calculation of Dumping Margins: Constructed Value	BPI

July 28, 2015

DOC Inv. Nos. A-570-029, C-570-030, A-351-843, C-351-844, A-533-865, C-533-866, A-588-873, **A-580-881**, C-580-882, A-421-812, A-821-822, C-821-823, A-412-824
USITC Inv. Nos. 701-TA-___-- __, and 731-TA-___ - ___
Total Pages: 786
Antidumping and Countervailing Duty Investigations

PUBLIC VERSION
Petitioners' Business Proprietary Information for which Proprietary Treatment Has Been Requested Deleted in the Attached Volumes of the Petition at: Volume I, pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, and 45, the Exhibit List, and Exhibits I-3 – I-4, and I-10 – I-15; and Volume IX, page 2, and Exhibits IX-2.A., IX-2.B., IX-2.J., IX-3.A., IX-3.B., IX-3.C., IX-4.A., IX-4.F, IX-5, IX-6.A., IX-6.B.

The Honorable Penny S. Pritzker
Secretary of Commerce
Attention: Enforcement and Compliance
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

Re: Petitions for the Imposition of **Antidumping** and Countervailing Duties: Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, **the Republic of Korea**, Netherlands, Russia, and the United Kingdom

Dear Secretary Pritzker and Secretary Barton:

On behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics, Inc., and United States Steel Corporation (collectively "Petitioners"), we hereby submit to the U.S. Department of Commerce (the "Department") petitions for the imposition of antidumping and countervailing duties on certain cold-rolled steel flat products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom (the "Petitions") pursuant to sections 701, 702(b), 731, and 732(b) of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. §§ 1671, 1671a(b), 1673 and 1673a(b)).

Pursuant to the Department's regulations codified at 19 C.F.R. § 351.202(c), we hereby certify that the Petitions and required copies are being filed today with the International Trade Commission (the "Commission").

At the Department, for each of the Petitions, we are filing Volume I (Common Issues and Injury) matched with the corresponding volume that contains the country-specific information on sales at less-than-fair value or the provision of countervailable subsidies. Information pertaining to the allegations of sales at less-than-fair value for the People's Republic of China, Brazil, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom is contained in Volumes II, IV, VI, VIII, IX, XI, XII, and XIV, respectively. Information concerning the countervailable subsidies provided by the People's Republic of China, Brazil, India, the Republic of Korea, and Russia is contained in Volumes III, V, VII, X, and XIII, respectively.

At the Commission, pursuant to instructions from Secretary Barton, we are filing an original and eight copies of: the narrative portion of the business proprietary version of Volume I (Common Issues and Injury); the narrative portion of the business proprietary version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). We are also filing an original and four copies of: the narrative portion of the public version of Volume I (Common Issues and Injury); the narrative portion of the public version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). Finally, we are filing on CD-ROM complete sets of the business proprietary and public versions of the exhibits to all volumes of these Petitions in PDF format compatible with the Commission's EDIS system.

On behalf of Petitioners, we hereby request proprietary treatment for information designated as proprietary in these Petitions pursuant to the Department's regulations codified at 19 C.F.R. §§ 351.202(d) and 351.304 and the Commission's rules codified at 19 C.F.R. § 201.6(b). Business proprietary information is enclosed in single brackets ("[ ]").

The information in Volume I of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

(1) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): Exhibit I-13.

(2) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): Exhibit I-14.

(3) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section)* (19 C.F.R. § 351.105(c)(5)): pages 31-32; and Exhibits I-4, I-12, and I-14.

(4) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)): Exhibits I-14.

(5) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): Exhibit I-14.

(6) *The position of a domestic producer or workers regarding a petition* (19 C.F.R. § 351.105(c)(10)): pages 3 and 35.

(7) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, and 45; and Exhibits I-3, I-10 – I-13, and I-15.

The information in the attached Volume IX of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

(8) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): Exhibits IX-4.A., IX-4.F., IX-5, and IX-6.B.

(9) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): Exhibits IX-2.A., IX-2.B, IX-2.J.

(10) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section)* (19 C.F.R. § 351.105(c)(5)): Exhibits IX-2.A., IX-2.B, IX-2.J.

(11) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)): page 2 and Exhibits IX-2.B.

(12) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): Exhibits IX-3.B., IX-4.A.

(13) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): page 2; and Exhibits IX-2.A., IX-2.B., IX-2.J., IX.3.A., IX-3.B., IX-3.C., IX-4.A., IX-4.F., IX-5, IX-6.A.., and IX-6.B.

The single-bracketed business proprietary information in the attached Volumes I and IX of these Petitions identified above is entitled to proprietary treatment in accordance with the Department's regulations codified at 19 C.F.R. § 351.304(a) and the Commission's rules codified at 19 C.F.R. § 201.6(b).[1] Information for which proprietary treatment is requested is not available to the public. Public disclosure of this information would result in serious and substantial harm to the competitive position of the sources of the information and would impair the ability of the Department and the Commission to obtain information necessary to fulfill their statutory functions. The requisite certifications that substantially identical information is not available to the public are set forth as attachments to this letter, in accordance with the Commission's rules codified at 19 C.F.R. § 201.6(b).

Pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(b), Petitioners agree in principle to permit disclosure of the single-bracketed business proprietary information contained in these Petitions under an appropriately drawn administrative protective order ("APO"). Petitioners, however, reserve the right to comment on all APO applications prior to disclosure.

In addition, pursuant to 19 C.F.R. § 351.304(b)(2), Petitioners submit that the information enclosed in double brackets ("[[ ]]") in Exhibit IX-3.B. of Volume IX is exempt from disclosure under an APO. The information in double brackets in Exhibit IX-3.B. would permit the identification of the foreign market researcher who obtained the home market prices used in the Petition. Specifically, this information includes the name of the declarant, the signature line, company information, and biographical details. The release of this information would lead to the disclosure of the foreign market researcher's identity. There is a clear and compelling need to withhold this information from disclosure. Most importantly, it is a matter of protecting the foreign market researcher's personal safety as well as economic security. If the identity of the foreign market researcher is released, it will result in substantial and irreparable harm to the foreign market researcher and there is no way to cure the breach. For these reasons, we submit that the Department should grant Petitioners' request for special protection of the double-bracketed information in Exhibit IX-3.B.

This public version is being filed simultaneously with the business proprietary version of these Petitions pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(c)(1) and the Commission's rules codified at 19 C.F.R. § 201.8(f). This public version contains a public summary of the single-bracketed business proprietary information in sufficient detail to permit a reasonable understanding of the contents of these Petitions.

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1 Volumes III, V, VII, X, and XIII of the Petitions contain no business proprietary information.

Should you have any questions regarding these Petitions, please contact the undersigned.

Respectfully submitted,

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PUBLIC VERSION

BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE
AND THE
U.S. INTERNATIONAL TRADE COMMISSION

CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS FROM BRAZIL, CHINA, INDIA, JAPAN, KOREA, NETHERLANDS, RUSSIA, AND THE UNITED KINGDOM

PETITION FOR THE IMPOSITION OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED

VOLUME IX
KOREA ANTIDUMPING

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Date: July 28, 2015

Table of Contents

Table of Contents
(continued)

I. CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS FROM KOREA ARE BEING SOLD OR OFFERED FOR SALE IN THE UNITED STATES AT LESS THAN FAIR VALUE

A. Introduction

This volume presents information reasonably available to Petitioners demonstrating that certain cold-rolled steel flat products ("cold-rolled steel") exported from Korea are being sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended ("the Act"). 19 U.S.C. § 1673. As discussed below, application of the standard antidumping methodology used by the U.S. Department of Commerce ("Department") demonstrates that producers and exporters in Korea have sold, or offered for sale, cold-rolled steel products in the United States for less than fair value.

The general and injury information required by section 351.202 of the regulations of the Department, 19 C.F.R. § 351.202, and section 207.11 of the regulations of the U.S. International Trade commission ("ITC" or the "Commission"), 19 C.F.R. § 207.11, can be found in Volume I of this Petition. Based on information reasonably available to Petitioners and contained in this volume, the Department should initiate an investigation into sales at less than fair value of cold-rolled steel from Korea and should impose antidumping duties in an amount that is equal to the amount by which the normal value exceeds the constructed export price.

B. Korean Producers

To the best of Petitioners' knowledge, cold-rolled steel from Korea is manufactured and exported to the United States by POSCO, Hyundai Steel, Dongkuk Industries, and Dongbu Steel. Pursuant to 19 C.F.R. § 351.202(b)(7)(i)(A), the name and address of all known Korean producers of cold-rolled steel are provided in Volume I, **Exhibit I-7** (foreign producer list). Additional information on the Korean foreign producers is attached to this volume as Exhibit **IX-**

1.A. (Foreign Mill Profiles). Although information about the proportion of total exports to the United States accounted for by each listed company is not reasonably available to Petitioners, based on experience in the marketplace, Petitioners believe that merchandise produced by the identified companies account for virtually all U.S. imports of certain cold-rolled steel during the period of investigation.

C. Export Price and Constructed Export Price

1. Korean Producers Analyzed

Petitioners have reason to believe or suspect that producers of certain cold-rolled steel in South Korea are selling cold-rolled steel in the United States at less than fair value. Petitioners obtained from a confidential source a U.S. price for a sale/offer for sale within the period of investigation for cold-rolled steel products from South Korea. See **Exhibit IX-2.** That information [

] represent

prices from Hyundai.

Hyundai-Hysco Co. Ltd. and Hyundai Steel Co. Ltd. ("Hyundai Steel") are sister companies within the Hyundai Motor Group. Historically, Hyundai-Hysco produced cold-rolled steel from hot-band supplied from Hyundai Steel. At the end of 2014, Hyundai Steel purchased the cold-rolling facilities of Hyundai-Hysco. See Exhibit **IX-1.A.** The Hyundai Motor Group has announced that as of July 1, 2015, both steel companies will be fully merged into one entity. Id. Given that Hyundai Steel published its own 2014 annual report (**Exhibit IX-4.E.**) and functioned as an integrated producer of cold-rolled steel during the POI, Petitioners have analyzed the sales and costs with information as specific to Hyundai Steel, with references to the cold-rolling sites formerly run by Hyundo-Hysco as is reasonably available. For background information on Hyundai Steel and the Hyundai-Hysco legacy facilities, see **Exhibit IX-1A.** For the cold-rolled steel product catalogue of Hyundai Steel, see **Exhibit IX-1B.**

Hyundai Steel produces flat-rolled steel using both electric arc furnaces as well as three blast furnaces that are at its Dangjin Steel Mill. See **Exhibit IX-1A.** Hyundai Steel built blast furnaces in order to offer a wide range of carbon steel hot strip with full vertical integration, which it is thus able to provide to the cold-rolling mills built by Hyundai-Hysco. Korean production costs have therefore been modeled on the cost of a representative U.S. producer of cold-rolled steel with vertical integration to blast furnace production.

Petitioners believe that sales of the subject merchandise may occur either before or after importation to the United States. Complicating the analysis of sales and offers for sale of Korean cold-rolled steel is the significant role of international trading companies. Trading companies such as GS Global and others distribute products made by multiple Korean mills, including POSCO, Hyundai Steel, Dongbu Steel and Dongkuk Industries.[1] See **Exhibit IX-1C.** Given all of the above facts, Petitioners believe that the analysis of sales and costs using reasonably available information pertaining to a major integrated producer, Hyundai Steel, provides a representative analysis of the dumping practices of the Korean cold-rolled steel industry.

2. Net U.S. Prices

To determine the ex-factory value of the U.S. sale at the foreign mill, Petitioners adjusted export prices for the following, as appropriate.

[1] For general information on Dongkuk Industries and its cold-rolling affiliate Union Steel as well as Dongbu Steel, see **Exhibit IX-1.A.**

a. Net U.S. Price

For the detailed calculations of the net, ex-factory U.S. price, see calculations at **Exhibit IX-2.A.**

b. Documentation

For the source documentation of the gross U.S. price, see calculations at **Exhibit IX-2.B.**

c. U.S. Brokerage And Handling

Petitioners adjusted for U.S. brokerage and handling based on the average brokerage house charges for exporting from South Korea published in Doing Business 2015: United States, by the ***World Bank***. See **Exhibit IX-2.C.**

d. Ocean Freight

Petitioners adjusted for ocean freight from the port of export to the closest U.S. port of entry for the U.S. customer using monthly freight charges[2] reported by Maersk Line, a major ocean freight carrier, for a full 40-foot container load of cold-rolled steel products. See **Exhibit IX-2.D.**

e. Marine Insurance

Petitioners adjusted for marine insurance charges using the publicly quoted premium of $0.0107 per $1 of insurance coverage published by P.A.F. Cargo Insurance for shipments of chemicals from South Korea to the United States. See **Exhibit IX-2.E.**

2 Basic Ocean Freight (BAS), Emergency Risk Surcharge, and Standard Bunker Adjustment Factor (SBF).

f. U.S. Customs Fees

Petitioners adjusted for U.S. customs fees of 0.125 percent (harbor maintenance) and 0.3464 percent (merchandise processing) pursuant to 19 C.F.R. §§ 24.23(b)(1)(A) and 24.24(a). See **Exhibit IX-2.F**.

These are applied *ad valorem* to the U.S. dutiable value of the merchandise (i.e., the FOB foreign port value of the goods). Therefore, Petitioners calculated port fees by subtracting all freight and insurance charges calculated above from the transaction price and applied the total 0.4714 percent customs fees using following formula: customs entry fees = (0.004714) * (Delivered Price – U.S. and International Freight & Insurance)/1.004714. See **Exhibit IX-2.A**.

g. Foreign Brokerage And Handling

Petitioners adjusted for foreign brokerage and handling for exporting subject merchandise based on the average brokerage house charges for exporting from South Korea published in Doing Business 2015: South Korea, by the ***World Bank***. See **Exhibit IX-2.G**.

h. Foreign Inland Freight

Petitioners adjusted for foreign inland freight from the producing mill to the applicable port using the average freight charges for exporting from South Korea, as published in Doing Business 2015: South Korea, by the ***World Bank***. See **Exhibit IX-2.H**.

i. Importer's Markup (Affiliated CEP Agency or Unaffiliated Trading Company)

Petitioners adjusted for U.S. selling expenses for sales made through an affiliated importer pursuant to 19 U.S.C. § 1677a(d) and 19 C.F.R. § 351.402, if applicable. Because actual selling expense data of affiliated importers are not available, Petitioners used estimates based upon the expenses publicly reported in the most recently available annual report of a distributor of steel, as applicable. See **Exhibit IX-2.I**.

Petitioners adjusted for an importer's mark-up reflected in the U.S. sale price made through an unaffiliated importer, if applicable. Petitioners do not have access to the actual mark-up that the reseller applied to goods offered for sale to its U.S. customers. As a reasonable estimate of the importer's mark-up, Petitioners used estimates based upon the difference between revenues and cost of goods sold that were publicly reported in the most recently available annual report of a distributor of steel, as applicable. See **Exhibit IX-2.I**.

j. Payment Terms: Imputed Credit and/or Payment discounts

Petitioners adjusted for extended payment terms, if applicable, with imputed credit determined based on a representative interest rate, and early payment discounts, if applicable. See **Exhibit IX-2.J**.

D. Calculation of Normal Value

Petitioners considered home market prices, the cost of production, and constructed value in determining normal value.

1. Home Market Prices

Petitioners obtained from a confidential source Korean home market prices based on sales or offers for sale within the proposed period of investigation for certain cold-rolled steel products. See **Exhibit IX-3.B**. Petitioner calculated a net home market price. See **Exhibit IX-3.A**. Petitioners adjusted for extended payment terms, if applicable, with imputed credit determined based on a representative interest rate, and early payment discounts, if applicable. See **Exhibit IX-3.C**.

2. <u>Cost of Production and Constructed Value</u>

Petitioners do not have access to the actual product-specific production costs for the producers and exporters of subject merchandise because those costs are not publicly available. To calculate the cost of production ("COP"), therefore, Petitioners relied on the cost of production of a petitioning U.S. producer for the subject merchandise as the best information reasonably available. <u>See</u> **Exhibit IX-4.A**. Petitioners adjusted those costs for known differences in cost between the Korean and U.S. industries. <u>See</u> resulting foreign mill COP calulations in **Exhibit IX-4.F**. Specifically, Petitioners calculated the cost of manufacturing ("COM") based on the sum of direct materials, direct labor, energy, and fixed and variable overhead costs. To the COM, Petitioners added amounts for selling, general and administrative ("SG&A") expenses to arrive at the COP. The costs of these inputs in Korea were determined as follows:

a. <u>Raw Material Costs</u>

Raw material costs were based on values from Global Trade Atlas ("GTA") for the most recent 12-month period available. <u>See</u> **Exhibit IX-4.B.**

b. <u>Labor Costs</u>

Labor costs were determined based on comparative manufacturing labor costs for the United States and Korea as reported in the U.S. Bureau of Labor Statistics, International Labor Comparisons, August 2013. <u>See</u> **Exhibit IX-4.C**.

c. <u>Energy Costs</u>

Energy costs were determined by applying public information on electricity and natural gas costs of South Korea to domestic producers' energy consumption quantities. Electricity cost were based on the industry rate for large consumers as published by KEPCO, the largest producer of electricity in Korea. See **Exhibit IX-4.D**. Natural gas costs were determined based on the Korean import value of natural gas as reported by GTA. Id.

d. Financial Ratios

Overhead, SG&A and profit (for CV only) were derived from most recently available financial statements of the manufacturer of comparable products in South Korea. See **Exhibit IX-4.E**.

Where it was necessary to rely on data from a period preceding the POI, in accordance with Department practice, petitioning U.S. producers adjusted such values to reflect current prices using the consumer price index ("CPI") data for Korea published by the IMF.

3. Cost Test and Below Cost Sales Allegation

Petitioners calculated the net price for comparison to COP using the net unpacked home market price. Based on a comparison of the home market ex-works price, net of packing, in U.S. dollars per short ton to the cost of production in U.S. dollars per short ton, the sale of the foreign like product occurred at a price significantly below the COP. See **Exhibit IX-5**.

a. Reason to Believe or Suspect Home Market Prices Were Below Cost

Because there is reason to believe or suspect that the home market sales were priced below the cost of production, Petitioners allege that there were sales below cost and, should a less-than-fair-value investigation be initiated, hereby request, pursuant to 19 U.S.C. § 1677b(b)(1), that the Department initiate a countrywide investigation as to whether any Korean respondent sold subject merchandise at prices below COP.

Further, based on the recently enacted amendments to the Act, the Department should automatically initiate a cost investigation following its initiation of a less-than-fair-value investigation. See 19 U.S.C. § 1677b(b)(2)(A)(ii) (providing that "{i}n an investigation initiated under section 732 . . ., the {Department} shall request information necessary to calculate the constructed value and cost of production under {19 U.S.C. § 1677b(e) and (f)} to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the cost of production of the product."); see also Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, § 505(a), 129 Stat. 362, 385 (2015).

b. Appropriate Basis for Normal Value

Because record evidence demonstrates that there is reason to believe that the home market sales were made at prices below the cost of production, Petitioners have calculated normal value based on constructed value as well as on net home market prices. The calculation of constructed value was based on the calculation of COP, explained above, plus an appropriate amount for profit. See **Exhibit IX-4.F.** As described below, both constructed value and the net home-market prices provide evidence to believe or suspect that sales of subject merchandise from Korea were sold at less than fair value.

E. Antidumping Duty Margin Calculation

Petitioners subtracted the export price or constructed export price from the most contemporaneous net home-market price as normal value, and divided the difference by the constructed export price to determine the dumping margin for the U.S. sale. These comparisons result in a price-to-price dumping margin of **93.32 percent.** See **Exhibit IX-6.A.**

Petitioners subtracted the export price or constructed export price from constructed value, and divided the difference by the constructed export price to determine the dumping margin for the U.S. sale. These comparisons result in a price-to-CV dumping margin of **176.13 percent**. See **Exhibit IX-6.B.**

II. CONCLUSION AND REQUEST FOR INVESTIGATION

As demonstrated above, cold-rolled steel from Korea is being sold at less than fair value. Accordingly, Petitioners request that the Department initiate an antidumping investigation of cold-rolled steel from Korea.

VOLUME IX: KOREA COLD-ROLLED STEEL AD EXHIBIT LIST

AD Exhibit No.	Description
IX-1	**Information on Foreign Exporters**
IX-1.A	Foreign Mill Profiles
IX-1.B	Foreign Mill Product Catalogues
IX-1.C	Foreign Trading Company Profile
IX-2	**Export Price and Constructed Export Price and Adjustments**
IX-2.A	Net U.S. Price
IX-2.B	Price Documentation
IX-2.C	U.S. Brokerage and Handling
IX-2.D	Ocean Freight
IX-2.E	Marine Insurance
IX-2.F	U.S. Customs Fees
IX-2.G	Foreign Brokerage and Handling
IX-2.H	Foreign Inland Freight
IX-2.I	Importer's Mark-up/Affiliate Selling Expense
IX-2.J	Interest Rate
IX-3	**Home Market Prices and Adjustments**
IX-3.A	Home-Market Net Price
IX-3.B	Price Documentation
IX-3.C	Interest Rate
IX-4	**Cost of Production and Constructed Value**
IX-4.A	U.S. Cost Experience
IX-4.B	Raw Material Costs Based on Global Trade Atlas
IX-4.C	Labor Costs
IX-4.D	Energy Costs
IX-4.E	Overhead, SG&A and Profit Documentation
IX-4.F	Foreign Mill Costs
IX-5	**Home-Market Sales Cost Test**
IX-6	**Margins of Dumping**
IX-6.A	Price-to-Price Margin
IX-6.B	Price-to-CV Margin

July 28, 2015

DOC Inv. Nos. A-570-029, C-570-030, A-351-843, C-351-844, A-533-865, C-533-866, A-588-873, A-580-881, **C-580-882**, A-421-812, A-821-822, C-821-823, A-412-824
USITC Inv. Nos. 701-TA-___-__, and 731-TA-___ - ___
Total Pages: 1122
Antidumping and Countervailing Duty Investigations

PUBLIC VERSION
Business Proprietary Information has been removed from the attached volumes of the Petitions at: Volume I, pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, 45, the Exhibit List, and Exhibits I-3 – I-4 and I-9 – I-15

The Honorable Penny S. Pritzker
Secretary of Commerce
Attention: Enforcement and Compliance
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

Re: Petitions for the Imposition of Antidumping and **Countervailing** Duties: Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, **the Republic of Korea**, Netherlands, Russia, and the United Kingdom

Dear Secretary Pritzker and Secretary Barton:

On behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics Inc., and United States Steel Corporation (collectively "Petitioners"), we hereby submit to the U.S. Department of Commerce (the "Department") petitions for the imposition of antidumping and countervailing duties on certain cold-rolled steel flat products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom (the "Petitions") pursuant to sections 701, 702(b), 731, and 732(b) of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. §§ 1671, 1671a(b), 1673 and 1673a(b)). Pursuant to the Department's regulations codified at 19 C.F.R. § 351.202(c), we hereby certify that the Petitions and required copies are being filed today with the International Trade Commission (the "Commission").

At the Department, for each of the Petitions, we are filing Volume I (Common Issues and Injury) matched with the corresponding volume that contains the country-specific information on sales at less-than-fair value or the provision of countervailable subsidies. Information pertaining to the allegations of sales at less-than-fair value for the People's Republic of China, Brazil, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom is contained in Volumes II, IV, VI, VIII, IX, XI, XII, and XIV, respectively. Information concerning the countervailable subsidies provided by the People's Republic of China, Brazil, India, the Republic of Korea, and Russia is contained in Volumes III, V, VII, X, and XIII, respectively.

At the Commission, pursuant to instructions from Secretary Barton, we are filing an original and eight copies of: the narrative portion of the business proprietary version of Volume I (Common Issues and Injury); the narrative portion of the business proprietary version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). We are also filing an original and four copies of: the narrative portion of the public version of Volume I (Common Issues and Injury); the narrative portion of the public version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). Finally, we are filing on CD-ROM complete sets of the business proprietary and public versions of the exhibits to all volumes of these Petitions in PDF format compatible with the Commission's EDIS system.

On behalf of Petitioners, we hereby request proprietary treatment for information designated as proprietary in these Petitions pursuant to the Department's regulations codified at 19 C.F.R. §§ 351.202(d) and 351.304 and the Commission's rules codified at 19 C.F.R. § 201.6(b). Business proprietary information is enclosed in single brackets ("[ ]").

The information in Volume I of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

(1) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): Exhibit I-13.

(2) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): Exhibit I-14.

(3) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section)* (19 C.F.R. § 351.105(c)(5)): pages 31-32 and Exhibits I-4, I-12, and I-14.

(4) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)): Exhibit I-14 and I-9.

(5) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): Exhibit I-14.

(6) *The position of a domestic producer or workers regarding a petition* (19 C.F.R. § 351.105(c)(10)): pages 3 and 35.

(7) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, and 45; and Exhibits I-3, I-10 – I-13, and I-15.

The single-bracketed business proprietary information in the attached Volume I of these Petitions identified above is entitled to proprietary treatment in accordance with the Department's regulations codified at 19 C.F.R. § 351.304(a) and the Commission's rules codified at 19 C.F.R. § 201.6(b).[1] Information for which proprietary treatment is requested is not available to the public. Public disclosure of this information would result in serious and substantial harm to the competitive position of the sources of the information and would impair the ability of the Department and the Commission to obtain information necessary to fulfill their statutory functions. The requisite certifications that substantially identical information is not available to the public are set forth as attachments to this letter, in accordance with the Commission's rules codified at 19 C.F.R. § 201.6(b).

Pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(b), Petitioners agree in principle to permit disclosure of the single-bracketed business proprietary information contained in these Petitions under an appropriately drawn administrative protective order ("APO"). Petitioners, however, reserve the right to comment on all APO applications prior to disclosure.

This public version is being filed simultaneously with the business proprietary version of these Petitions pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(c)(1) and the Commission's rules codified at 19 C.F.R. § 201.8(f). This public version contains a public summary of the single-bracketed business proprietary information in sufficient detail to permit a reasonable understanding of the contents of these Petitions.

[1] Volumes III, V, VII, X, and XIII of the Petitions contain no business proprietary information.

Should you have any questions regarding these Petitions, please contact the undersigned.

Respectfully submitted,

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DOC Investigation No. C-580-882
Total Pages: 923
Investigation
Contains No Business Proprietary Information
PUBLIC DOCUMENT

BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION
UNITED STATES DEPARTMENT OF COMMERCE AND THE
UNITED STATES INTERNATIONAL TRADE COMMISSION

CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS FROM THE REPUBLIC OF KOREA

PETITION FOR THE IMPOSITION OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED

VOLUME X

INFORMATION RELATING TO KOREA – COUNTERVAILING DUTIES

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July 28, 2015

TABLE OF CONTENTS

TABLE OF CONTENTS
(continued)

TABLE OF CONTENTS
(continued)

I. THE DEPARTMENT SHOULD IMPOSE COUNTERVAILING DUTIES ON CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS FROM KOREA

Pursuant to 19 U.S.C. §§ 1671(a)(1) and (2), the Department of Commerce (the "Department") is required to impose a countervailing duty ("CVD") when a "Subsidies Agreement" country is found to provide countervailable subsidies to manufacturers that sell or import merchandise into the United States and the imported merchandise materially injures or threatens to injure an industry in the United States. As a member of the World Trade Organization ("WTO"), the Republic of Korea ("Korea") is considered to be a "Subsidies Agreement" country under 19 U.S.C. § 1677(b). Petitioners allege that the Government of Korea ("GOK") maintains various economic programs and policies that have conferred countervailable subsidies on Korean producers of certain cold-rolled steel flat products ("cold-rolled steel"), and that these subsidized subject imports are materially injuring the U.S. cold-rolled steel industry. Accordingly, Petitioners request that the Department apply U.S. CVD laws to the policies and programs outlined in this petition.

II. NAME OF THE COUNTRY IN WHICH THE SUBJECT MERCHANDISE IS MANUFACTURED OR PRODUCED

The name of the country in which the subject merchandise is manufactured or produced is Korea.

III. NAMES AND ADDRESSES OF KOREAN COLD-ROLLED STEEL PRODUCERS AND EXPORTERS BELIEVED TO BENEFIT FROM COUNTERVAILABLE SUBSIDIES

Petitioners have identified numerous Korean producers or exporters of cold-rolled steel believed to benefit from countervailable subsidies provided by all levels of the Korean government. The names and contact information for Korean cold-rolled steel producers and exporters are listed in **Volume I: Exhibit I-7**. The information provided in this exhibit represents the best information reasonably available to Petitioners.

IV. EFFORTS TO OBTAIN INFORMATION

Petitioners have conducted extensive research to document Korean government subsidies to the cold-rolled steel industry in Korea, including a review of the following sources: financial statements of Korean cold-rolled steel producers, where available; company websites; market and industry research; news sources; WTO, U.S. government, and Korean government reports; and recent Department CVD investigations and administrative reviews with respect to Korea.

However, much of the information that would allow Petitioners to determine with certainty the types and amounts of subsidies received by each of Korea's cold-rolled steel producers is difficult or impossible to obtain. Given the difficulties inherent in documenting subsidization, Petitioners concur with the Department that "there are typically no independent sources for data on company-specific benefits resulting from countervailable subsidy programs."[1] The most accurate and thorough manner in which the type and amount of subsidies may be determined is through investigations and administrative reviews.[2]

Despite the difficulties in obtaining information, Petitioners investigated and are providing information demonstrating that the GOK has granted, and continues to grant, financial assistance to Korea's cold-rolled steel producers – assistance that constitutes countervailable subsidies under Section 771 of the Tariff Act of 1930, *as amended* (the "Act").

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1 *Prestressed Concrete Steel Wire Strand from India*, 68 Fed. Reg. 40,629, 40,632 (Dep't Commerce July 8, 2003) (notice of preliminary affirmative countervailing duty deter.).

2 *See id.*, 68 Fed. Reg. at 40,632.

V. IMPORTS OF COLD-ROLLED STEEL FROM KOREA ARE BENEFITING FROM COUNTERVAILABLE SUBSIDIES

The GOK, including regional and local governments, government-owned or -controlled corporations, and agencies, provides countervailable subsidies to producers of cold-rolled steel as described on a program-by-program basis below. These programs include:

- The provision of inputs for less than adequate remuneration ("LTAR");
- The purchase of electricity for more than adequate remuneration ("MTAR");
- Export subsidies;
- Loans;
- Energy and resource subsidies;
- Debt work outs;
- Income tax benefits;
- Regional subsidies; and
- Grants.

Each of these programs meets the elements of a countervailable subsidy within the meaning of Section 771(5) of the Act. The general information required by Section 351.202(b) of the Department's regulations is provided in Volume I of this petition.

The Department has found that a significant number of the programs identified below constitute countervailable subsidies in prior investigations and reviews. Many are subsidy programs on their face and have been identified as such by the GOK. All of the subsidy programs described below are specific to an enterprise or industry, including the Korean cold-rolled steel industry, or are contingent on export performance.

For purposes of 19 C.F.R. § 351.524(d)(2), the average useful life of renewable physical assets in the steel industry is 15 years.[3] Accordingly, assuming that the period of investigation ("POI") is calendar year 2014, Petitioners respectfully request that the Department investigate any allocable, non-recurring subsidies granted during the period from 1999 to 2014, and any outstanding loans or recurring subsidies provided during the presumptive POI.

A. <u>Provision of Inputs for LTAR</u>

1. Provision of Electricity for LTAR

The GOK's provision of electricity for LTAR is a government subsidy that is of significant importance to Korean cold-rolled steel producers. Korea is a highly industrially-developed nation, whose economy is largely dependent on export growth. As such, it has considerable energy needs to maintain its export-driven economic engine.[4]

In order to promote exports and other policy goals, the GOK intervenes directly in the electricity market, as the producer and distributor of electricity and the entity responsible for setting electricity rates.[5] State-owned and -controlled electricity monopoly Korea Electric Power Corporation ("KEPCO") controls all aspects of electricity generation, retail, transmission, and distribution in Korea.[6] According to the Department:

> KEPCO is under the general supervision of {the Ministry of Trade, Industry, and Energy}. MOTIE also has the authority to regulate and supervise the electricity business in Korea. Under Korean law, the Government of Korea is required to own, directly or indirectly, at least 51 percent of KEPCO's capital which allows the GOK to control the approval of corporate matters relating to KEPCO.[7]

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3 *See* Internal Revenue Service, Pub. 946 "How to Depreciate Property" (2014), excerpt attached as **Exhibit X-1**.

4 U.S. Energy Information Administration, *Korea, South* (last updated Apr. 1, 2014), attached as **Exhibit X-2**.

5 *See id.*

6 *Id.*; *see also* Issues and Decision Memorandum accompanying *Welded Line Pipe From the Republic of Korea,* 80 Fed. Reg. 14,907 (Dep't Commerce Mar. 20, 2015) (prelim. negative countervailing duty deter. and alignment of final deter. with final antidumping duty deter.) at 15 ("Line Pipe from Korea Prelim I&D Memo").

7 Line Pipe from Korea Prelim I&D Memo at 15 (citations omitted).

Further, the GOK directly controls the rates charged by KEPCO and is responsible for setting and approving any change to them.[8] The GOK's extensive intervention in the Korean electricity market enables state-owned KEPCO to charge significantly lower rates[9] – indeed, rates that are below the cost of production – for its users, a fact that has been well-documented and confirmed by independent, third-party non-governmental organizations like the International Energy Agency ("IEA").[10] Moreover, this same government intervention permits and encourages KEPCO's continued provision of specialized rates to Korea's exporting industrial sector, which receives even lower rates than the already cut-rate prices provided to residential and commercial users.[11] The Department has confirmed as much, recently concluding that the "GOK has traditionally maintained low electricity tariffs for industry."[12]

Korea's electricity prices for its industrial users are less than half of those charged by Japanese utilities. According to recent reports, Korean industrial power tariffs are $0.074/kWh compared to $0.15/kWh in Japan.[13] This pricing disparity is significant, particularly given that Korea and Japan are similarly situated as sophisticated and highly developed industrial bases, both of which rely heavily on fossil fuel imports to generate electricity.[14]

KEPCO's artificially low electricity rates can be achieved only through massive governmental intervention that is intended to facilitate industrial expansion and export growth, especially with respect to steel products. As the Department recently concluded, "{c}heap

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8 *See, e.g.*, *Kepco reports a bigger-than-expected Q4 loss*, Korea JoongAng Daily (Mar. 15, 2013), attached as **Exhibit X-3**.

9 *See* U.S. Energy Information Administration, *Korea, South* (last updated Apr. 1, 2014), attached as **Exhibit X-2**.

10 *See, e.g.*, IEA, *Electricity Information* (2012) at IV.465, IV.468, excerpts attached as **Exhibit X-4**.

11 *See, e.g.*, *id.*

12 Line Pipe from Korea Prelim I&D Memo at 15.

13 *South Korean energy security: finding a new way forward*, WoodMackenzie (Jan. 27, 2014), attached as **Exhibit X-5**.

14 *Compare* U.S. Energy Information Administration, *Korea, South* (last updated Apr. 1, 2014), attached as **Exhibit X-2**, *with* U.S. Energy Information Administration, *Japan* (last updated July 31, 2014), attached as **Exhibit X-6**.

power significantly helped the export-led growth of the Korean economy, while nurturing an industry structure which consumes too much power and which cannot survive with a price that would recover costs."[15]

The Department has already found that the steel industry is the largest consumer of electricity in Korea.[16] Cold-rolled steel production consumes substantial amounts of electricity, with Hyundai Steel Company ("Hyundai Steel") and POSCO being the largest consumers of electricity among iron and steel producers in Korea.[17] POSCO, in particular, has blast furnace operations, which require a significant amount of high-voltage electricity to operate.[18] As such, Korean cold-rolled steel producers have benefitted heavily from this subsidy program.

a. KEPCO Provides Electricity to Korean Cold-Rolled Steel Producers at Below Market Rates

As the Department recently concluded in *Line Pipe from Korea*, KEPCO subsidizes electricity to the steel industry by providing this input at below market rates. Created in 1961 when the GOK merged three state-owned and -operated electricity supply companies in Korea, KEPCO was established as and remains a state-owned entity.[19] The Korea Electric Power Corporation Act specifies that "{t}he Government shall own at least fifty one percent (51%) of the legal and beneficial ownership of the issued and outstanding shares of {KEPCO}."[20] The GOK's control is further evidenced by the fact that it routinely vetoes KEPCO's requests to

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15 Line Pipe from Korea Prelim I&D Memo at 17.

16 *See id.*

17 *See* Letter from Yoon & Yang LLC, to Sec'y of Commerce, re: *Welded Line Pipe from the Republic of Korea: Response to the Supplemental Questionnaire* (Apr. 14, 2015) at 5-14 (PUBLIC VERSION), excerpts attached as **Exhibit X-7**.

18 MetalBulletin, Iron Steel Works of the World Directory (2014), excerpts attached as **Exhibit X-8**.

19 Seung-Hoon Lee, *Electricity in Korea: Paper*, 2011/SOM2/SYM/009, Seoul National University (May 16, 2011) at 1, attached as **Exhibit X-9**.

20 Korea Electric Power Corporation Act (last amended Dec. 5, 2002) at Art. 4, attached as **Exhibit X-10**.

increase electricity tariffs to recover the costs incurred in KEPCO's generation of electricity.[21] KEPCO provides electricity to the vast majority of consumers in Korea and manipulates its electricity tariff schedule to provide steel users – including Korean producers like POSCO and Hyundai Steel – subsidized electricity rates.

KEPCO has long maintained separate, reduced billing rates for industrial users. The Department has confirmed as much, concluding that:

> While the retail rates of electricity in Korea are set by the standard principle of rate of return regulation, it is generally accepted that the rates for agricultural and industrial users are set below cost, while those for other users are above cost. This rate structure generated cross-subsidization where residential and commercial consumers paid higher electricity tariffs in order to subsidize agricultural and industrial consumers. Industrial consumers represent up to half of Korea's total power consumption. This cross-subsidization provided incentives to Korean industry to rely heavily upon high electricity consumption. This is a legacy of an export-driven policy which provided manufacturers with a wide range of subsidies. Cheap power significantly helped the export-led growth of the Korean economy, while nurturing an industry structure which consumes too much power and which cannot survive with a price that would recover costs.[22]

The evidence of this practice is extensive. A report written by the former chairman of the Korean Electricity Commission stated that, with respect to KEPCO, "it is generally accepted that the rates for ... industrial users are set below cost, while those for other users are above cost."[23] Furthermore, according to a report released by Korea's Board of Audit ("BAI") on KEPCO's electricity sales practices to industry members, "KEPCO sold the electricity used in industrial sites of the country's largest conglomerates at about 85.8 percent lower than the production cost ... in order to strengthen the competitiveness of those large conglomerates."[24] KEPCO also discounted already-reduced-cost nighttime electricity use by 34 to 37 percent for these

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[21] *See, e.g., Kepco reports a bigger-than-expected Q4 loss*, Korea JoongAng Daily (Mar. 15, 2013), attached as **Exhibit X-3**.

[22] Line Pipe from Korea Prelim I&D Memo at 15-16.

[23] Seung-Hoon Lee, *Electricity in Korea: Paper*, 2011/SOM2/SYM/009, Seoul National University (May 16, 2011) at 5, attached as **Exhibit X-9**.

[24] Jin Heo, *Kepco found cutting chaebol huge power deals*, Korea JoongAng Daily (June 13, 2013), attached as **Exhibit X-11**.

conglomerates.[25] The BAI report further found that, despite a GOK policy implemented in July 2011 requiring utilities to charge more for electricity as the energy costs for raw materials rose, KEPCO never applied the policy to the conglomerates.[26] More recently, when confronted by evidence that KEPCO had provided preferential electricity rates to Korea's top 100 corporations amounting to nearly 9.5 trillion Korean Won ("KRW") over the last 10 years, KEPCO President Hwan-Ik Cho confirmed that KEPCO had, indeed, provided beneficial electricity rates to these companies "in order to help them become more competitive."[27]

Korea's National Assembly also recently issued a report on KEPCO, concluding that KEPCO charges discounted electricity tariff rates to Korea's industrial sector, resulting in significant losses to KEPCO.[28] The report found that the tariffs charged to these industrial consumers are lower than the lowest rates for electricity in the Organization for Economic and Cooperative Development ("OECD") nations.[29]

Echoing these sentiments, the Korea Times reported that KEPCO "has been selling electricity at lower-than-market prices, as part of the government's move to control and reduce power costs."[30] Even KEPCO's current CEO recognizes that the GOK has "been supporting {certain} industries with cheap power in order to make them a growth engine for the economy.

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25 *Id.*

26 *Id.*

27 Public Complaint, *The Dumping of Certain Oil Country Tubular Goods Originating in or Exported From Chinese Taipei, India, Indonesia, the Philippines, South Korea, Thailand, Turkey, Ukraine, and Vietnam and the Subsidizing of Certain Oil Country Tubular Goods Originating in or Exported from India, Indonesia, the Philippines, South Korea, Thailand, Turkey, Ukraine, and Vietnam* (June 6, 2014) at Exhibit 7-B-70, excerpts attached as **Exhibit X-12**.

28 *See* Response of the Government of Korea to the Department of Commerce's Questionnaire, *Welded Line Pipe from the Republic of Korea*, CVD Original Investigation (Case No. C-580-877) (Jan. 21, 2015) (PUBLIC VERSION) at Exhibit E-4 (2013 National Assembly Report), excerpts attached as **Exhibit X-13**.

29 *See id.*

30 Jane Han, *POSCO's Electricity Business Annoys KEPCO*, Korea Times (Feb. 13, 2009), attached as **Exhibit X-14**.

They use power at much lower rates than ordinary households, and industrial use accounts for more than 50 percent of the nation's total power consumption."[31]

KEPCO's continued discounting of electricity rates charged to industrial users is enabled and encouraged by the GOK. KEPCO only recently posted a profit for the first time in six years, thanks largely to desperate company-wide measures that included sales of stakes in major affiliates and properties, drastic cost-cutting efforts, and the return of many officials' and employees' bonuses and wages.[32] KEPCO had previously lost billions of dollars each quarter because the GOK "barred it from passing rising fuel costs on to users" and all but ignored KEPCO's lobbying for rate liberalization.[33]

As the BIA acknowledged, "KEPCO was operating {at a} business loss in order to strengthen the competitiveness of ... large conglomerates,"[34] including export-oriented Korean steelmakers like Hyundai Steel and POSCO. In operating electricity-intensive manufacturing processes in their cold-rolled steel production, Korean steel producers, such as Hyundai Steel and POSCO, benefit heavily from the GOK's reduced industrial electricity rates. As the Department is well aware, cold-rolled steel production consumes the following primary inputs: hot-rolled steel,[35] labor, and electricity. As such, the GOK's preferential electricity rates directly impact the primary cost drivers of cold-rolled steel production.

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31 Tae-Jung Yum, *Power price hikes inevitable to fend off soaring demand*, Korea JoongAng Daily (Sept. 4, 2013), attached as **Exhibit X-15**.

32 Kyong-ae Choi, *KEPCO back into black after 6 years*, Korea Times (Jan. 13, 2014), attached as **Exhibit X-16**.

33 *Kepco reports a bigger-than-expected Q4 loss*, Korea JoongAng Daily (Mar. 15, 2013), attached as **Exhibit X-3**; *see also* Se Young Lee, *UPDATE 2 – S. Korea hikes power prices to avoid blackouts, cut KEPCO losses*, Reuters (Nov. 19, 2013), attached as **Exhibit X-17**; John Burton, *A turning point at KEPCO?*, Korean Times (Dec. 4, 2014), attached as **Exhibit X-18**; Kyungji Cho and Kyoungwha Kim, *Kepco Tariff Brake on Economy Spurs Jump in Bonds: Korea Markets*, Bloomberg (May 14, 2014), attached as **Exhibit X-19**.

34 Jin Heo, *Kepco found cutting chaebol huge power deals*, Korea JoongAng Daily (Jun. 13, 2013), attached as **Exhibit X-11**.

35 *See Certain Cold-Rolled Steel Products From Australia, India, Japan, Sweden, and Thailand*, Inv. Nos. 731-TA-965, 971-972, 979, and 981 (Final), USITC Pub. 3536 (Sep. 2002) at I-18.

KEPCO's tariff rates are structured to favor Korean cold-rolled steel producers and other industrial users of significant volumes of high-voltage electricity, ensuring that industrial producers pay lower tariffs than low-voltage electricity users like residential users.[36] Korea's industrial sector is responsible for well over 50 percent of the country's overall power consumption,[37] and, as the Department has already concluded, its members are afforded the second-lowest rate by sector; only agricultural users receive lower rates.[38]

In 2010, Korean manufacturers in the iron and steel sector were responsible for nearly one quarter of Korea's total industrial electricity consumption.[39] And, though they comprised less than 10 percent of the Korean manufacturing sector in 2012,[40] they still consumed 20 percent or more of the electricity generated by KEPCO for the entire manufacturing sector, second only to the petrochemical subsector.[41] That Korean iron and steel manufacturers appear to benefit so significantly from low-cost Korean industrial electricity rates despite comprising a comparatively small proportion of the Korean industrial sector indicates that Korean cold-rolled and other steel producers are being targeted by the GOK as the recipients of these benefits.

Indeed, Korean steel producers have topped the list of Korea's ten leading industrial consumers of electricity.[42] As a result, not only are Hyundai Steel and POSCO the largest users

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36 *See* Public Complaint, *The Dumping of Certain Oil Country Tubular Goods Originating in or Exported From Chinese Taipei, India, Indonesia, the Philippines, South Korea, Thailand, Turkey, Ukraine, and Vietnam and the Subsidizing of Certain Oil Country Tubular Goods Originating in or Exported from India, Indonesia, the Philippines, South Korea, Thailand, Turkey, Ukraine, and Vietnam* (June 6, 2014) at Exhibits 7-B-68, excerpts attached as **Exhibit X-12**.

37 Se Young Lee, *UPDATE 2 – S. Korea hikes power prices to avoid blackouts, cut KEPCO losses*, Reuters (Nov. 19, 2013), attached as **Exhibit X-17**.

38 *See* Line Pipe from Korea Prelim I&D Memo at 15-17.

39 *See* IEA, *Electricity Information* (2012) at IV.465, excerpts attached as **Exhibit X-4**.

40 *Position in the Korean Economy*, Korean Iron & Steel Association website excerpts (last accessed Oct. 15, 2014), attached as **Exhibit X-20** (based on contribution to GDP).

41 KEPCO, *Statistics of Electric Power in Korea* (May 2014) at Table 25, excerpts attached as **Exhibit X-21**.

42 Kyung-don Joo, *Industries blast power price increase*, Korea JoongAng Daily (Nov. 21, 2013), attached as **Exhibit X-22**.

of electricity among Korean steel producers,[43] they are also two of the largest industrial consumers of electricity in Korea.[44] It is no surprise, therefore, that Korean steel producers have also been among the most vociferous opponents of any increase in electricity rates,[45] no doubt relying on their standing as important Korean exporters to apply pressure to GOK and KEPCO officials. As key consumers of the electricity necessary to operate their mills, Korean cold-rolled steel producers have likely used and relied upon this subsidy during the POI.

b. The Provision of Electricity at Below Market Rates Constitutes a Countervailable Subsidy

Pursuant to Sections 771(5) and 771(5A) of the Act, a countervailable subsidy exists where a government or government authority provides a financial contribution, a benefit is conferred, and the subsidy is specific.[46] The Department has previously determined that KEPCO's provision of electricity for LTAR constitutes a countervailable subsidy and should continue to do so here.[47]

(1) Financial Contribution

As the Department recently found in *Line Pipe from Korea*, this program provides a financial contribution in the form of a good or service that is provided to subject producers under Section 771(5)(D)(iii) of the Act.[48] Section 771(5)(D) of the Act states that a financial contribution may take the form of a direct transfer of funds, the potential direct transfer of funds or liabilities, foregoing or not collecting revenue that is otherwise due, or providing goods or

43 *See* Letter from Yoon & Yang LLC, to Sec'y of Commerce, re: *Welded Line Pipe from the Republic of Korea: Response to the Supplemental Questionnaire* (Apr. 14, 2015) at 5-14 (PUBLIC VERSION), excerpts attached as **Exhibit X-7**.

44 Kyung-don Joo, *Industries blast power price increase*, Korea JoongAng Daily (Nov. 21, 2013), attached as **Exhibit X-22**.

45 *See, e.g.*, Se Young Lee, *UPDATE 2 – S. Korea hikes power prices to avoid blackouts, cut KEPCO losses*, Reuters (Nov. 19, 2013), attached as **Exhibit X-17**.

46 19 U.S.C. §§ 1677(5)(A), 1677(5)(B), 1677(5A).

47 *See* Line Pipe from Korea Prelim I&D Memo at 17.

48 *Id.*

services other than general infrastructure.[49] As a government entity whose sole purpose is to ensure a continued cheap supply of energy at below cost to its exporting industries, KEPCO has provided a financial contribution to Korean cold-rolled steel producers in the form of a good or service, specifically, electricity. KEPCO is owned by the government and serves a government-mandated function by providing cheap electricity to industrial users, often selling it at well below cost.[50] Indeed, KEPCO is a government-owned and -controlled monopoly generator, distributor, and retailer of electricity,[51] whose policies and rates are driven by official GOK action.[52]

(2) Benefit

Consistent with the Department's recent findings in *Line Pipe from Korea*, the Department should find that government-owned and -controlled monopoly KEPCO confers a benefit on Korean cold-rolled steel producers under Section 771(5)(E) of the Act and Section 351.503 of the Department's regulations[53] in the form of a good or service (*i.e.*, electricity) for LTAR.[54] The evidence reasonably available to Petitioners shows that Korean electricity rates provided to industry members are significantly lower than those charged by geographically- and compositionally-similar Japan,[55] and fail to cover KEPCO's production costs.[56] These rates are controlled by GOK policy, which includes an electricity pricing system specifically designed to

49 19 U.S.C. § 1677(5)(D).

50 *See*, *e.g.*, U.S. Energy Information Administration, *Korea, South* (last updated Apr. 1, 2014), attached as **Exhibit X-2**.

51 *See*, *e.g.*, *id.*

52 *See Kepco reports a bigger-than-expected Q4 loss*, Korea JoongAng Daily (Mar. 15, 2013), attached as **Exhibit X-3**; Tae-Jung Yum, *Power price hikes inevitable to fend off soaring demand*, Korea JoongAng Daily (Sept. 4, 2013), attached as **Exhibit X-15**.

53 19 U.S.C. § 1677(5)(E); 19 C.F.R. § 351.503.

54 *See* Line Pipe from Korea Prelim I&D Memo at 17.

55 *Compare*, *e.g.*, IEA, *Energy Policies of IEA Countries: The Republic of Korea 2012 Review* (2012) at 87, excerpts attached as **Exhibit X-23**, *with* United Kingdom Department of Energy & Climate Change, *Table 5.3.1 Industrial Electricity Prices in the IEA* (last updated Sept. 25, 2014), attached as **Exhibit X-24**.

56 *See* Line Pipe from Korea Prelim I&D Memo at 20.

benefit industrial consumers like Korean cold-rolled steel producers.[57] Thus, these electricity-intensive manufacturers have received a benefit in the form of lower prices for their inputs than they otherwise would have paid in the absence of government intervention.

As the Department recently determined, Korean industry members and steel sector producers in particular are disproportionate recipients of the benefits of this subsidy. Further, Korean electricity prices are distorted by government intervention.[58] As a result, the Department should look to a similarly-situated nation like Japan for comparison. Japan is relatively geographically-similar to Korea and, like Korea, has extremely limited domestic energy resources and reserves; it is the leading importer of LNG, much of which goes to electricity production.[59] Japan is also highly industrialized, like Korea. However, there is a sharp contrast between Japan's industrial electricity rates and those charged by Korean monopoly producer and distributor KEPCO, as noted above. Japan's industrial rates are likely more reflective of electricity production and market costs in a similarly-situated market for purposes of inclusion in a global benchmark, and they are reflective of the price Korean steel producers would have to pay if they had to venture outside of Korea to obtain the electricity needed to produce cold-rolled steel.

(3) Specificity

The Department also recently preliminarily concluded that KEPCO's provision of electricity is specific under Section 771(5A)(D)(iii)(III) of the Act "because the steel industry is the largest industrial consumer of electricity and the National Assembly of Korea has concluded

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57 *See*, *e.g.*, U.S. Energy Information Administration, *Korea, South* (last updated Apr. 1, 2014), attached as **Exhibit X-2**.

58 *See*, *e.g.*, Line Pipe from Korea Prelim I&D Memo at 15-19.

59 *See* U.S. Energy Information Administration, *Japan* (last updated July 31, 2014), attached as **Exhibit X-6**.

that the GOK is subsidizing the steel industry for its exceeding use of electricity."[60] The Department should continue to do so here. Industrial users, particularly cold-rolled and other steel producers, receive electricity rates that are disproportionately low. Of the essentially three sectors of KEPCO's electricity consumers (residential, commercial, and industrial), industrial users consume more than half of all electricity in Korea and pay less than either commercial or residential users for their electricity.[61] The Korean industry sector consumes fully 51 percent of all Korean electricity generated.[62] The overwhelming majority of all industrial electricity consumed – 75 percent – is consumed by just four industries in Korea. Among these four, the iron and steel industry has ranked second at 22 percent,[63] despite comprising less than 10 percent of the total Korean manufacturing sector.[64] Steel sector members are engaged in manufacturing endeavors that require high rates of electricity consumption, with cold-rolled steel production, in particular, requiring significant quantities of high-voltage electricity as a key input. As the Department has already found, any benefit to be conferred through manipulated low electricity rates is therefore clearly targeted to the steel subsector.[65]

KEPCO's admission to providing the top 100 Korean corporations with preferential rates is further evidence that the benefits of this subsidy were provided to a specific group of Korean industry members.[66] Additionally, the Korean steel industry's strong opposition to any increase

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60 *See* Line Pipe from Korea Prelim I&D Memo at 17 (citation omitted).

61 *See, e.g.*, Tae-Jung Yum, *Power price hikes inevitable to fend off soaring demand*, Korea JoongAng Daily (Sept. 4, 2013), attached as **Exhibit X-15**.

62 *See* IEA, *Electricity Information* (2012) at IV.455, excerpts attached as **Exhibit X-4**.

63 *Id.* at IV.465.

64 *See, e.g.*, *Position in the Korean Economy*, Korean Iron & Steel Association website excerpts (last accessed Oct. 15, 2014), attached as **Exhibit X-20** (based on contribution to GDP); KEPCO, *Statistics of Electric Power in Korea* (May 2014) at Table 25, excerpts attached as **Exhibit X-21**.

65 Line Pipe from Korea Prelim I&D Memo at 17.

66 *See* Public Complaint, *The Dumping of Certain Oil Country Tubular Goods Originating in or Exported From Chinese Taipei, India, Indonesia, the Philippines, South Korea, Thailand, Turkey, Ukraine, and Vietnam and the Subsidizing of Certain Oil Country Tubular Goods Originating in or Exported from India, Indonesia, the Philippines, South Korea, Thailand, Turkey, Ukraine, and Vietnam* (June 6, 2014) at Exhibits 7-B-70, excerpts attached as **Exhibit X-12**.

in KEPCO's electricity rates simply underscores the iron and steel industry's reliance upon and disproportionate benefit from this program.[67]

2. Power Business Law Subsidies

a. The GOK Provides Electricity for LTAR Pursuant to the Power Business Law

Korean cold-rolled steel producers receive electricity for LTAR pursuant to the Power Business Law. Under this program, major Korean industrial companies are required to submit regular energy consumption plans to the GOK.[68] If the company ultimately consumes less energy than initially predicted in its filed consumption plan, a portion of the company's energy bill is returned,[69] regardless of any charges for the electricity actually consumed. This program is executed in accordance with Articles 25, 48, and 49 of the Power Business Law.[70]

Reasonably available information indicates that Korean cold-rolled steel producers like Hyundai Steel were disproportionate beneficiaries under this program during the POI. As noted above, the manufacturing subsector consumes the majority of Korean electricity, and, within that group of consumers, members of the Korean steel sector – as producers of goods that require large amounts of high-voltage electricity – are responsible for a disproportionately large share of that electricity consumption.[71] Indeed, Korean steel producers account for five of the top 15 users of the program and received nearly 36 percent of the total subsidies obtained by those top 15 recipients in 2011.[72] Hyundai Steel alone is reported to have received 272.5 billion KRW

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67 *See, e.g.*, Tae-Jung Yum, *Power price hikes inevitable to fend off soaring demand*, Korea JoongAng Daily (Sept. 4, 2013), attached as **Exhibit X-15**; Kyung-don Joo, *Industries blast power price increase*, Korea JoongAng Daily (Nov. 21, 2013), attached as **Exhibit X-22**.

68 Power Business Law, attached as **Exhibit X-25**.

69 *Id.*

70 *Id.* at Arts. 25, 48, 49.

71 *See, e.g.*, *supra* at V.A.1.

72 Samsung Electronics, *3 years electrical charge 400 billion won Discount Coupon* (Aug. 21, 2013), attached as **Exhibit X-26**.

under this program.[73] As such, reasonably available evidence indicates that Hyundai Steel and other cold-rolled steel producers likely received benefits under this program during the POR.

b. Electricity Subsidies Provided Under the Power Business Law Constitute a Countervailable Subsidy

As it did in the current investigation of *Corrosion-Resistant Steel ("CORE") from Korea*, the Department should initiate an investigation of this allegation,[74] and, for the reasons detailed below, conclude that the provision of electricity subsidies under the Power Business Law constitutes a countervailable subsidy.

(1) Financial Contribution

To the extent that Korean cold-rolled steel producers were refunded portions of their power bills in connection with annual savings pursuant to the Power Business Law, they received a financial contribution in the form of a good or service (*i.e.*, electricity) under Section 771(5)(D)(iii) of the Act.

(2) Benefit

The Power Business Law confers a benefit upon Korean cold-rolled steel producers under Section 771(5)(E)(iv) of the Act and Section 351.503 of the Department's regulations to the extent that the GOK and KEPCO, through the refund of a portion of Korean producers' electricity charges, provide a good or service for LTAR.

(3) Specificity

There is reason to believe or suspect that the electricity subsidies provided to Korean cold-rolled steel producers pursuant to the Power Business Law are specific within the meaning of Sections 771(5A)(D)(ii) and (iii) of the Act. As noted above, cold-rolled steel production

73 *Id.*

74 CVD Investigation Initiation Checklist, *Certain Corrosion-Resistant Steel Products from the Republic of Korea*, C-580-879 (June 23, 2015) (PUBLIC VERSION) at 8, attached as **Exhibit X-105**.

requires large amounts of high-voltage electricity. As an electricity-intensive subsector and disproportionately significant consumer of electricity,[75] the Korean steel sector generally and cold-rolled steel producers specifically benefit disproportionately from this program. Indeed, one-third of the top 15 recipients under this program are steel producers, including Hyundai Steel.[76] Accordingly, there is reason to believe that Korean steel sector members and cold-rolled steel producers are predominant users of this electricity subsidy and received a disproportionately large amount of the subsidy pursuant to the Power Business Law.

3. Energy Savings Program Subsidies

a. The GOK Provides Electricity for LTAR Under the Energy Savings Program

Korean steel sector members and cold-rolled steel producers, in particular, participate in an Energy Savings Program, which also provides electricity subsidies. Under this program, participants receive government subsidies related to reduced use of electricity (*i.e.*, electricity savings) during the summer and winter, peak seasons for electricity use.[77] The GOK has offered the subsidies to companies that cut either more than 20 percent of their average electricity use or more than 3,000 kilowatts per day during peak hours.[78] As described above, the steel sector – and the cold-rolled steel sector in particular – is a predominant user of Korean electricity. In fact, the GOK itself recently indicated as such, conceding that POSCO and Hyundai Steel are among the largest users of electricity in Korea.[79]

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[75] *See, e.g., supra* at V.A.1.

[76] *See* Samsung Electronics, *3 years electrical charge 400 billion won Discount Coupon* (Aug. 21, 2013), attached as **Exhibit X-26**.

[77] *Gov't to remove electricity subsidies for companies next year*, Yonhap News Agency (May 22, 2013), attached as **Exhibit X-27**.

[78] *Id.*

[79] Kyung-don Joo, *Industries blast power price increase*, Korea JoongAng Daily (Nov. 21, 2013), attached as **Exhibit X-22**; *see also* Letter from Yoon & Yang LLC, to Sec'y of Commerce, re: *Welded Line Pipe from the Republic of Korea: Response to the Supplemental Questionnaire* (Apr. 14, 2015) at 5-14 (PUBLIC VERSION), excerpts attached as **Exhibit X-7**.

The steel sector and the cold-rolled sector specifically also is a predominant user of the Energy Savings Program. For instance, between 2008 and 2011, Hyundai Steel received more than 34 billion KRW in subsidies under this program.[80] As noted above, members of the Korean steel industry, including cold-rolled steel producers, are high-volume consumers of high-voltage electricity. They are disproportionately more likely to be able to reach the threshold 3,000 kilowatts per day reduction without significant impact to their daily manufacturing activities. Thus, these high-volume consumers of high-voltage electricity are significantly more able and likely than other Korean companies to have received this subsidy during the POI. Given that Korean steel sector members have received this subsidy for at least four of the five years preceding the POI,[81] it is reasonable to conclude that they have received subsidies under this program during the POI.

b. The Provision of Energy Saving Subsidies Constitutes a Countervailable Subsidy

As the Department has previously found,[82] the provision of subsidies pursuant to the Energy Savings Program constitutes a countervailable subsidy.

80 *Gov't to remove electricity subsidies for companies next year*, Yonhap News Agency (May 22, 2013), attached as **Exhibit X-27**.

81 *Id.*

82 Indeed, in the 2012 administrative review of *Cut-to-Length Steel Plate from Korea*, the Department initiated on and investigated benefits provided under the same program alleged in this investigation: the Energy Savings Program. Memorandum from John Conniff, International Trade Compliance Analyst, to Melissa G. Skinner, re: *Certain Cut-To-Length Carbon-Quality Steel Plate from South Korea – Decision Memorandum on New Subsidy Allegations* (Jan. 2, 2014) (PUBLIC DOCUMENT) at 7, attached as **Exhibit X-28**. Only after reviewing questionnaire responses did the Department determine that respondent Dongkuk Steel Mill Co., Ltd. ("DSM") did not use the Energy Savings Program; DSM's use of GOK electricity programs was limited to the Vacation and Repair Adjustment ("VRA"), Voluntary Curtailment Adjustment ("VCA"), and Direct Load Interruption ("DLI") programs. Issues and Decision Memorandum accompanying *Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea*, 79 Fed. Reg. 16,283 (Dep't Commerce Mar. 25, 2014) (prelim. results of countervailing duty admin. rev.; 2012) at 12. *See also* Issues and Decision Memorandum accompanying *Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea*, 79 Fed. Reg. 46,770 (Dep't Commerce Aug. 11, 2014) (final results of countervailing duty admin. rev.; 2012) at 4-5.

(1) Financial Contribution

The Energy Savings Program provides a financial contribution to Korean cold-rolled steel producers in the form of services or goods (*i.e.*, electricity) under Section 771(5)(D)(iii) of the Act.

(2) Benefit

Cold-rolled steel producers receive benefits under the Energy Savings Program pursuant to Section 771(5)(E)(iv) of the Act and Section 351.503 of the Department's regulations by paying less for electricity – a significant input with regard to cold-rolled steel production – than they otherwise would have paid in the absence of this government program.

(3) Specificity

There is reason to believe or suspect that the electricity subsidies provided to Korean cold-rolled steel producers under the Energy Savings Program are specific within the meaning of Sections 771(5A)(D)(ii) and (iii) of the Act.[83] As an electricity-intensive manufacturing subsector and significant consumers of electricity,[84] Korean cold-rolled steel producers benefit disproportionately from this program, having received in excess of 48.4 billion KRW pursuant to this program in at least four of the five years preceding the POI.[85] Accordingly, there is reason to believe or suspect that members of the Korean steel industry and, more specifically, cold-rolled steel producers have been and are predominant users of the Energy Savings Program subsidies, thereby receiving a disproportionately large amount of the subsidies under the program.

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83 19 U.S.C. § 1677(5A)(D).

84 *See, e.g., supra* at V.A.1.

85 *Gov't to remove electricity subsidies for companies next year*, Yonhap News Agency (May 22, 2013), attached as **Exhibit X-27.**

4. Provision of LNG for LTAR

a. The GOK Provides LNG to Korean Cold-Rolled Steel Producers for LTAR

POSCO, which generates power using LNG, receives subsidies from the GOK in the form of discounted natural gas prices. Korea's peak electricity demand is generally met using Korea's LNG imports.[86] Korea has no natural energy reserves and, consequently, has become one of the top energy importers in the world, relying on fuel imports for approximately 97 percent of its primary energy demand.[87] In fact, it is the second largest importer of LNG in the world, second only to Japan.[88] LNG is a significant source for Korea's electricity generation, more than two-thirds of which is sourced from fossil fuel sources.[89]

According to the U.S. Energy Information Administration ("EIA"), state-owned Korea Gas Corporation ("KOGAS") "maintains an effective monopoly over the purchase, import, and wholesale distribution of natural gas," becoming the largest single natural gas importer in the world as a result.[90] The EIA reports that in "addition to operating three of Korea's four LNG receiving terminals, KOGAS … sells regasified LNG to power generation companies and private gas distribution companies."[91] The retail market, which is made up of more than 30 city gas companies, is overseen by local governments and provinces. These local gas companies purchase wholesale gas from KOGAS at a government-approved price, which they then sell gas to end-users. KOGAS also supplies LNG to private power generation companies, which

86 U.S. Energy Information Administration, *Korea, South* (last updated Apr. 1, 2014), attached as **Exhibit X-2**.
87 *Id.*
88 *Id.*
89 *Id.*
90 *Id.*
91 *Id.*

comprise almost fifty percent of KOGAS' customer base.[92] Korea's private power generation companies are primarily limited to the following entities: K-Water, GS Power, GS EPS, MPC, E&S, Pocheon Power, Korea District Heating Corp, and POSCO Power.[93] Wholesale prices for power companies such as POSCO must be approved by Korea's Ministry of Commerce, Industry, and Energy ("MOCIE"), with no price deregulation at the wholesale level.[94]

POSCO purchases LNG from KOGAS, which it subsequently vaporizes into gas at its LNG terminal in Gwangyang.[95] POSCO then converts this gas into electricity at its Incheon facility for use in its Pohang and Gwangyang steelmaking facilities, which produce cold-rolled steel and other flat-rolled steel products.[96] Notably, of the iron and steel producers in Korea, POSCO is the second largest user of electricity.[97]

Reasonably available evidence indicates that POSCO purchases LNG from KOGAS at below-market rates. According to an internal KOGAS report, the prices that KOGAS charges to industrial customers cover only 30 percent of its supply costs,[98] all of which must be approved by the state. Moreover, KOGAS' recent financial losses demonstrate that this state-owned and – controlled entity is selling LNG at prices that bar the company from turning a profit. KOGAS

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92 *See* "Natural Gas Flow Measurement in KOGAS" Presentation by Research Fellow Ph.D Her Jae-Young, KOGAS (Sept. 20, 2014) at 1, attached as **Exhibit X-29**.

93 Response of the Government of Korea to the Department of Commerce's Questionnaire, *Welded Line Pipe from the Republic of Korea*, CVD Original Investigation (Case No. C-580-877) (Jan. 21, 2015) (PUBLIC VERSION) at I-32 – I-33 (2013 National Assembly Report), excerpts attached as **Exhibit X-13**.

94 Warner ten Kate, Lazlo Varro, and Anne-Sophia Corbeau, *International Energy Agency: Developing a Natural Gas Hub in Asia-Obstacles and Opportunities* (2013) at 55-56, excerpts attached as **Exhibit X-30**.

95 *See* POSCO Energy Brochure (2014) at 11, attached as **Exhibit X-31**.

96 *See, e.g.*, POSCO Energy Brochure (2014) at 19-21, attached as **Exhibit X-31**; *see also* POSCO Energy, Incheon LNG Combined Cycle Power Plant (last accessed May 7, 2015), attached as **Exhibit X-32**.

97 Letter from Yoon & Yang LLC, to Sec'y of Commerce, re: *Welded Line Pipe from the Republic of Korea: Response to the Supplemental Questionnaire* (Apr. 14, 2015) at 5-14 (PUBLIC VERSION), excerpts attached as **Exhibit X-7**.

98 Anton Ming-Zhi Gao, *Regulating Gas Liberalization: A Comparative Study on Unbundling and Open Access Regimes in the US, Europe, Japan, South Korea, and Taiwan* (Oct. 2010) at 256 at fn. 17, excerpts attached as **Exhibit X-33**.

reported a net loss of 203.6 billion KRW in 2013.[99] And, in 2014, KOGAS reported a loss of 196 million USD and obtained a 0 percent return on invested capital.[100]

While direct imports of LNG for captive use were made possible by the revised "Oil Business Law" enacted in 1998,[101] Korea has failed to liberalize its natural gas market. Indeed, efforts to privatize and deregulate the sector and open up the wholesale and retail markets to competition largely have stalled.[102] As a result, it is widely recognized that KOGAS continues to maintain a monopoly over LNG sales and imports,[103] and will likely continue to do so well into the future. According to a recent International Energy Agency report:

> {S}ecurity of supply policy remains a top priority for the government and KOGAS takes a pivotal role in this policy. The Korean government's most recent long-term natural gas supply and demand plan calls for more access to upstream natural gas production and KOGAS's leverage of its buying power on world LNG markets {}. It is therefore very unlikely that the plans to privatize {sic} KOGAS will be revived in the future. This will mean that the government continues to exert a commanding influence in Korea's natural gas industry.[104]

b. The Provision of LNG for LTAR Constitutes a Countervailable Subsidy

As shown below, each of the statutory elements for finding a countervailable subsidy is satisfied. Accordingly, the provision of LNG for LTAR constitutes a countervailable subsidy.

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99 Korea Gas Corporation and Subsidiaries Consolidated Financial Statements (Dec. 31, 2013 and 2012) at 5, excerpts attached as **Exhibit X-34**.

100 Platts Insight: 2015 Asia Energy Outlook (Oct. 2014) at 57, excerpt attached as **Exhibit X-35**.

101 Poten & Partners, *2015-2035 LNG Market Assessment Outlook for the Kitimat LNG Terminal* (Oct. 2010) at 9-10, excerpts attached as **Exhibit X-36**.

102 OECD, *Korea: Inventory of estimated budgetary support and tax expenditures for fossil fuels*, attached as **Exhibit X-37**.

103 U.S. Energy Information Administration, *Korea, South* (last updated Apr. 1, 2014), attached as **Exhibit X-2**; *see also* Charles Lee, *South Korea's KOGAS to cut LNG imports in response to weaker local demand*, Platts (Nov. 20, 2014), attached as **Exhibit X-38**; Howard V. Rogers and Jonathan Stern, *Challenges to JCC Pricing in Asian LNG Markets,* The Oxford Institute for Energy Studies (Feb. 2014) at 41, excerpts attached as **Exhibit X-39**; Warner ten Kate, Lazlo Varro, and Anne-Sophia Corbeau, *International Energy Agency: Developing a Natural Gas Hub in Asia-Obstacles and Opportunities* (2013) at 55, excerpts attached as **Exhibit X-30**.

104 Warner ten Kate, Lazlo Varro, and Anne-Sophia Corbeau, *International Energy Agency: Developing a Natural Gas Hub in Asia-Obstacles and Opportunities* (2013) at 56, excerpts attached as **Exhibit X-30**.

In fact, the Department recently countervailed the provision of natural gas for LTAR in *Rebar from Turkey.*[105]

(1) Financial Contribution

The Act defines "authority" as "a government of a country or any public entity within the territory of the country."[106] While the statute does not define "public entity," the Department's "longstanding practice" is to "{treat} most government-owned corporations as the government itself."[107] The Department may consider a variety of factors in determining whether an entity is a "public entity" under the countervailing duty laws, but "{i}n most instances, majority government ownership alone indicates that a firm is an authority."[108]

Here, available information shows that KOGAS was incorporated by the GOK,[109] and that the GOK continues to own a majority of KOGAS' shares. The EIA notes that "{t}he Korean central government is the largest KOGAS shareholder with 26.9 {percent} direct equity, and an additional indirect 24.5 {percent} share via the Korean Electric Power Company (KEPCO),"[110] for a total of 51.4 percent ownership. According to a publicly available KOGAS presentation, local governments in Korea also own 9.8 percent of KOGAS, pushing total

105 Issues and Decision Memorandum accompanying *Steel Concrete Reinforcing Bar From the Republic of Turkey*, 79 Fed. Reg. 54,963 (Dep't Commerce Sept. 15, 2014) (final affirmative countervailing duty deter. final affirmative critical circumstances deter.) at 8 ("Rebar from Turkey I&D Memo").

106 19 U.S.C. § 1677(5)(B).

107 *Countervailing Duties*, 63 Fed. Reg. 65,348, 65,402 (Dep't Commerce Nov. 25, 1998) (final rule).

108 Issues and Decision Memorandum accompanying *Certain Kitchen Shelving and Racks from the People's Republic of China*, 74 Fed. Reg. 37,012 (Dep't Commerce July 27, 2009) (final affirmative countervailing duty deter.) at 43.

109 KOGAS, *Our Profile* website excerpt (last accessed May 7, 2015), attached as **Exhibit X-40**.

110 U.S. Energy Information Administration, *Korea, South* (last updated Apr. 1, 2014), attached as **Exhibit X-2**. KEPCO is 51.11 percent owned by the GOK and the Korea Finance Corporation, which is 100 percent owned by the GOK. *See* KEPCO, *Overview* website excerpt (last accessed May 7, 2015), attached as **Exhibit X-41**; International Development Finance Club, *Korea Finance Corporation (KoFC)* website excerpt (last accessed May 7, 2015), attached as **Exhibit X-42**.

government ownership to 61.2 percent.[111] KOGAS is thus a "public entity" and an authority capable of providing a financial contribution under the Act.

As a government entity whose purpose is to ensure a continued cheap supply of LNG at below cost to Korean power producers, including POSCO, KOGAS has provided a financial contribution in the form of a good or service, specifically, LNG, under Section 771(5)(D)(iii) of the Act.[112]

(2) Benefit

POSCO received a benefit under this program pursuant to Section 771(5)(E) of the Act and Section 351.503 of the Department's regulations. As described above, the evidence reasonably available to Petitioners shows that KOGAS' LNG rates are below-market. These rates are controlled by GOK policy, which created a pricing system that was specifically designed to protect industrial consumers like POSCO.[113]

(3) Specificity

This program is specific, given that there are only a limited number of private power companies in Korea, all of which purchase natural gas or LNG from KOGAS. The retail market for LNG in Korea, which is made up of more than 30 city gas companies, is overseen by local governments and provinces.[114] These local gas companies, which are largely government-owned and -controlled, purchase wholesale gas from KOGAS at a government-approved price and then sell that gas to end-users. KOGAS also supplies LNG to 20 power generation companies, which

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[111] Pipeline Network Construction and Maintenance in KOGAS (May 9, 2007), attached as **Exhibit X-43**.

[112] *See, e.g.*, Rebar from Turkey I&D Memo at 8.

[113] *See* U.S. Energy Information Administration, *Korea, South* (last updated Apr. 1, 2014), attached as **Exhibit X-2**.

[114] *See* OECD, *Korea: Inventory of Estimated Budgetary Support and Tax Expenditures for Fossil Fuels*, attached as **Exhibit X-37**.

comprise almost fifty percent of the company's customer base.[115] Of these 20 power plants, 14 account for approximately 93.4 percent of the total electricity production in Korea.[116] Moreover, of these 14, six are owned by KEPCO and account for over 77 percent of power generation in Korea.[117] These KEPCO subsidiaries are as follows: Korea Hydro & Nuclear Power Co.; Korea South-East Power Co.; Korea Midland Power Co.; Korea Western Power Co.; Korea Southern Power Co.; and Korea East-West Power Co.[118] Korean state-owned and -controlled electricity producer KEPCO owns 20.5 percent of KOGAS.[119] As such, these six power companies are effectively state-owned KOGAS affiliates, and the natural gas prices that KOGAS charges to these entities are distorted heavily.

Only eight of these 14 power plants are private entities: K-Water, GS Power, GS EPS, MPC, E&S, Pocheon Power, Korea District Heating Corp, and POSCO Power.[120] In addition, it appears that Hyundai Steel is affiliated with two power-generating facilities, both of which are private power producers. Hyundai Green Power Co., Ltd., a subsidiary of Hyundai Steel,[121] engages in "by-product gases power generation" and "power production and sales."[122] Another apparent Hyundai Steel affiliate, Hyundai Energy Co., Ltd., engages in power generation.[123]

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115 *See* "Natural Gas Flow Measurement in KOGAS" Presentation by Research Fellow Ph.D Her Jae-Young, KOGAS (Sept. 20, 2014) at 1, attached as **Exhibit X-29**.

116 *See* Response of the Government of Korea to the Department of Commerce's Questionnaire, *Welded Line Pipe from the Republic of Korea,* CVD Original Investigation (Case No. C-580-877) (Jan. 21, 2015) (PUBLIC VERSION) at I-32 – I-33, excerpts attached as **Exhibit X-13**.

117 *Id.*

118 *See* Response of the Government of Korea to the Department of Commerce's Questionnaire, *Welded Line Pipe from the Republic of Korea,* CVD Original Investigation (Case No. C-580-877) (Jan. 21, 2015) (PUBLIC VERSION) at I-32 – I-33, excerpts attached as **Exhibit X-13**.

119 Korea Gas Corporation and Subsidiaries Consolidated Financial Statements (Dec. 31, 2013 and 2012) at 11, excerpts attached as **Exhibit X-34**.

120 *See* Response of the Government of Korea to the Department of Commerce's Questionnaire, *Welded Line Pipe from the Republic of Korea,* CVD Original Investigation (Case No. C-580-877) (Jan. 21, 2015) (PUBLIC VERSION) at I-32 – I-33, excerpts attached as **Exhibit X-13**.

121 Company Overview of Hyundai Green Power Co. Ltd., Bloomberg Business, attached as **Exhibit X-44**.

122 Hyundai Green Power Company Profile, APEC-VC Korea, attached as **Exhibit X-45**.

123 Korean Electric Power Corporation, 2014 Form 20-F at F-75, excerpts attached as **Exhibit X-46**.

Notably, both POSCO and Hyundai Steel are the largest consumers of electricity among iron and steel producers in Korea.[124]

As with KOGAS' affiliated power companies, private industrial users, particularly steel sector members, also receive LNG rates that are discounted – prices that cover merely 30 percent of KOGAS' costs.[125] Indeed, of the essentially three sectors of KOGAS' natural gas consumers (residential, commercial, and industrial), industrial users pay less than either commercial or residential users for their natural gas.[126] Power producers, including cold-rolled steel producers with their own power generating facilities (*i.e.*, POSCO and Hyundai Steel), are significant consumers of industrial LNG. By giving industrial users a bigger benefit than commercial or residential users of natural gas, KOGAS is continuing the government policy of providing power to industrial users at below market rates.

As explained above, steel producers either purchase LNG from KOGAS for consumption in their electricity generating facilities, as is the case with POSCO and Hyundai Steel, and/or they purchase LNG from KOGAS directly for consumption in their steel producing facilities. The Department recently confirmed that "{i}ndustrial consumers represent up to half of Korea's total power consumption"[127] and that steel producers are one of the largest industrial consumers of electricity in Korea,[128] despite comprising less than 10 percent of the total Korean manufacturing sector.[129] The reason for this is that steel production is highly energy-intensive. Unlike the case for electricity, information on the percentage of industrial LNG consumed by the

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124 *See* Letter from Yoon & Yang LLC, to Sec'y of Commerce, re: *Welded Line Pipe from the Republic of Korea: Response to the Supplemental Questionnaire* (Apr. 14, 2015) at 5-14 (PUBLIC VERSION), excerpts attached as **Exhibit X-7**.

125 Anton Ming-Zhi Gao, *Regulating Gas Liberalization: A Comparative Study on Unbundling and Open Access Regimes in the US, Europe, Japan, South Korea, and Taiwan* (Oct. 2010) at 256 at fn. 17, excerpts attached as **Exhibit X-33**.

126 *Id.*

127 Line Pipe from Korea Prelim. I&D Memo at 15.

128 *Id.* at 15-19.

129 *See supra* p. 10.

steel industry is not readily available.[130] Petitioners reasonably believe that, if the Department initiates an investigation of this subsidy program as requested, such additional information will be uncovered during the course of the agency's investigation. That said, given the energy intensive nature of the steel industry, including the cold-rolled steel industry, together with the Korean government's policy of ensuring that this industry is provided with power at the lowest rates possible and the fact that the steel industry is involved in power generation, it is reasonable to conclude that this subsidy program targets the steel sector. As such, this program is specific pursuant to Sections 771(5A)(D)(iii)(I) and (II) of the Act.

B. Provision of Electricity for MTAR

1. The GOK Purchases Electricity from Cold-Rolled Steel Producers for MTAR

The GOK controls all major aspects of the Korean electricity market through the state-owned electricity monopoly, KEPCO.[131] While KEPCO's six wholly-owned generation subsidiaries generate the vast majority of electricity in Korea, KEPCO, through the Korea Power Exchange ("KPX"), also purchases and distributes substantial amounts of electricity produced by independent generators.[132] The KPX, wholly-owned by KEPCO and its generation subsidiaries, purchases all electricity from these generators and resells it to KEPCO, which then distributes it to the ultimate consumer.[133] The GOK thus controls all purchases of electricity in addition to all sales and distribution of electricity.

[130] KOGAS is in the best position to know this information; however, this information does not appear to be publicly available.

[131] *See supra* pp. 4-6.

[132] *See* Response of the Government of Korea to the Department of Commerce's Questionnaire, Welded Line Pipe from the Republic of Korea, CVD Original Investigation (Case No. C-580-877) (Jan. 21, 2015) (PUBLIC VERSION), attached as **Exhibit X-13**.

[133] *See* Letter from Yoon & Yang LLC to Sec'y of Commerce, re: *Welded Line Pipe from the Republic of Korea: Supplemental Questionnaire Response on Electricity Rate* (Mar. 6, 2015) (PUBLIC VERSION) at 12, excerpts attached as **Exhibit X-47**; Response of the Government of Korea to the Department of Commerce's

The Department of Commerce (the "Department") is currently investigating an allegation that the GOK provides electricity for less than adequate remuneration in the investigation of *Welded Line Pipe from the Republic of Korea.*[134] In its preliminary determination in that investigation, the Department found that the GOK's provision of electricity constitutes a financial contribution that is specific pursuant to sections 771(5)(D)(iii) and 771(5)(D)(iii)(III) of the Tariff Act of 1930, as amended (the "Act").[135] In determining whether a benefit is conferred, the Department considered whether KEPCO's price was "consistent with market principles" under 19 C.F.R. § 351.511(a)(2)(iii).[136] The Department preliminarily determined that a portion of the prices for which the GOK provided tariff and cost justification information appeared to be set in accordance with market principles and that no benefit was conferred.[137]

Petitioners strongly believe that this preliminary finding was in error, that the final determination in *Welded Line Pipe from Korea* will be modified, and that an investigation of KEPCO's electricity prices in these proceedings will show that Korean cold-rolled steel producers receive substantial benefits from the GOK's provision of electricity for less than adequate remuneration. If, however, the Department finds that KEPCO's electricity prices are set in accordance with market principles, and without prejudice to Petitioners' allegation that the GOK provides electricity for less than adequate remuneration to Korean cold-rolled steel producers, the information reasonably available to Petitioners demonstrates that the Department must find that the GOK confers benefits on Korean cold-rolled steel producers by purchasing electricity from them for MTAR.

Questionnaire, Welded Line Pipe from the Republic of Korea, CVD Original Investigation (Case No. C-580-877) (Jan. 21, 2015) (PUBLIC VERSION), attached as **Exhibit X-13**.

134 Issues and Decision Memorandum accompanying *Welded Line Pipe from the Republic of Korea*, 80 Fed. Reg. 14,907 (Dep't Commerce Mar. 20, 2015) (preliminary negative countervailing duty determination and alignment of final determination with final antidumping duty determination) at 15-20.

135 *Id.* at 17.

136 *Id.*

137 *Id.*

While detailed information regarding the prices that the KPX pays Korean generators for electricity is not public, reasonably available information shows that KEPCO, through the KPX, pays these generators significantly more than KEPCO charges to industrial end users. According to one report in the Korean media, POSCO's wholly-owned and consolidated power generation subsidiary,[138] POSCO Power, has sold electricity to the KPX for 111 won per kilowatt, while purchasing electricity back from KEPCO for 66 won per kilowatt.[139] POSCO Power's sales price to the KPX, therefore, has been as much as 68.2 percent higher than KEPCO's sales price to industrial end users. According to one KEPCO official, cold-rolled steel producers like POSCO that also generate electricity are "opting to sell {their} power output, instead of feeding {their} own need because {they} can buy at a bargain price from us. . . . {They are} taking advantage of the government-intervened pricing system."[140]

It is thus clear that electricity prices in Korea are distorted by government intervention and are not set in accordance with market principles. While Petitioners believe that this distortion is primarily reflected in the artificially low prices that KEPCO charges industrial end users, if the Department continues to believe that its preliminary findings in *Welded Line Pipe from Korea* are correct, then the distortion must be reflected in the prices at which KEPCO, through the KPX, purchases electricity from power generators.

Reasonably available information indicates that the KPX continues to purchase electricity from POSCO Power, such that POSCO likely continued to benefit from this subsidy during the

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138 POSCO Form 20-F at 23, excerpts attached as **Exhibit X-48**. POSCO Power was renamed POSCO Energy in 2012. POSCO Energy Brochure (2014), attached as **Exhibit X-31**.

139 Jane Han, *FOSCO's Electricity Business Annoys KEPCO*, Korea Times (Feb. 13, 2009), attached as **Exhibit X-14**.

140 *Id.*

POI.[141] Other Korean cold-rolled steel producers likely benefitted from this subsidy during the POI as well. Hyundai Green Power Co., Ltd., a subsidiary of Hyundai Steel,[142] engages in "by-product gases power generation" and "power production and sales."[143] Another apparent Hyundai Steel affiliate, Hyundai Energy Co., Ltd., engages in power generation.[144] Because all electricity generated in Korea is sold to KEPCO through the KPX, the Korean cold-rolled steel producers affiliated with these power generators also likely benefitted from the GOK's purchases of electricity for MTAR during the POI.

2. The GOK's Purchase of Electricity for MTAR is a Countervailable Subsidy

As it did in the current investigation of *CORE from Korea*, the Department should initiate an investigation of this allegation,[145] and, for the reasons detailed below, conclude that the purchase of electricity for MTAR constitutes a countervailable subsidy.

a. Financial Contribution

This subsidy constitutes a financial contribution in the form of the purchase of goods pursuant to section 771(5)(D)(iv) of the Act.

b. Benefit

This subsidy confers a benefit within the meaning of section 771(5)(E)(iv) of the Act because the GOK purchases electricity for MTAR.

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141 Response of the Government of Korea to the Department of Commerce's Questionnaire, *Welded Line Pipe from the Republic of Korea*, CVD Original Investigation (Case No. C-580-877) (Jan. 21, 2015) (PUBLIC VERSION) at I-32 – I-33, excerpts attached as **Exhibit X-13**.

142 Company Overview of Hyundai Green Power Co. Ltd., Bloomberg Business, attached as **Exhibit X-44**.

143 Hyundai Green Power Company Profile, APEC-VC Korea, attached as **Exhibit X-45**.

144 Korean Electric Power Corporation, 2014 Form 20-F at F-75, excerpts attached as **Exhibit X-46**.

145 CVD Investigation Initiation Checklist, *Certain Corrosion-Resistant Steel Products from the Republic of Korea*, C-580-879 (June 23, 2015) (PUBLIC VERSION) at 30-31, attached as **Exhibit X-105**.

c. Specificity

This subsidy is specific because it is limited to electricity generators, such that the actual recipients of the subsidy, whether considered on an enterprise or industry basis, are limited in number in accordance with section 771(5A)(D)(iii)(I) of the Act.

C. Korean Export-Import Bank Countervailable Subsidy Programs

The Korean Export-Import Bank ("KEXIM") is an official GOK export credit agency that provides comprehensive trade financing products to Korean exporters.[146] The bank primarily extends export loans, trade financing, and guarantees to bolster export competitiveness.[147] As a bank wholly-owned by the GOK, KEXIM is "driven by policy considerations in addition to the customary commercial, environmental and political risk considerations" typically assessed by banking entities.[148] KEXIM has, for example, "provided a much higher level of direct loans during the period of tight liquidity in the bank market to fulfill its role as a gap-filler."[149] KEXIM allows Korean borrowers to obtain "more competitive pricing and longer {terms}" than would otherwise be available.[150] The Department has previously determined that loans from KEXIM confer benefits.[151]

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[146] *See* "Developing Opportunities with Korea Eximbank," Presentation by You MI Park, Senior Loan Officer, Inter-Korean Cooperation Fund (Aug. 6, 2013), attached as **Exhibit X-49**.

[147] *Overview*, Export-Import Bank of Korea website excerpt (last accessed May 12, 2015), attached as **Exhibit X-50**.

[148] *Filling the funding gap – Korea Eximbank*, Project Finance International (Sept. 23, 2013), attached as **Exhibit X-51**.

[149] *Id.*

[150] *Id.*

[151] Issues and Decision Memorandum accompanying *Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea*, 77 Fed. Reg. 17,410 (Dep't Commerce Mar. 26, 2012) (final affirmative countervailing duty deter.) at 13 ("Bottom Mount Refrigerators I&D Memo").

1. Short-Term Export Credits

a. KEXIM Provides Short-Term Export Credits to Korean Cold-Rolled Steel Producers

KEXIM extends preferential, low-interest financing to exporters to cover the costs of production and shipment of exported goods. This preferential financing is presented in the form of pre-shipment credits and export loans. Companies can borrow up to the full value of the cost of producing and shipping a product for an export loan, less a required cash payment, in a foreign currency. The discount interest rate payable for such an export loan is either a fixed rate (CIIR + margin) or a floating rate (LIBOR + margin).[152] Companies can also borrow up to 90 percent of the value for a pre-shipment credit, less any amounts received, in either KRW or a foreign currency. The discount interest rate payable on this type of loan is the base rate + margin for a Korean KRW loan and LIBOR (or swap rate) + margin for a foreign currency loan.[153] In addition, companies can borrow up to the full value for short-term trade financing, less the amount the borrower already received, in a foreign currency or KRW, and the discount interest rate is the base rate + margin. The loan repayment term is 5-10 years for export loans on steel products, and is required within 30 days from the last payment date for a pre-shipment credit and short-term trade financing.[154]

The most recently available financial statements from Korean cold-rolled steel producers POSCO;[155] Daewoo International Corporation ("DWI"),[156] POSCO's cross-owned affiliate;[157]

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152 *Export Loan* and *Short-term Trade Finance*, KEXIM website excerpts (last accessed Oct. 9, 2014), attached as **Exhibit X-52**.

153 *Id.*

154 *Id.*

155 POSCO's Separate Financial Statements (Dec. 31, 2014 and 2013) at 49, excerpts attached as **Exhibit X-53**.

156 DWI's 2012-2013 Separate Financial Statements at 46, excerpts attached as **Exhibit X-54**.

157 The Department has previously found DWI and POSCO to be cross-owned such that DWI's receipt of subsidies are attributable to POSCO. Issues and Decision Memorandum accompanying *Non-Oriented Electrical Steel From the Republic of Korea*, 79 Fed. Reg. 61,605 (Dep't Commerce Oct. 14, 2014) (final negative

Dongbu Steel Co., Ltd. ("Dongbu");[158] and Hyundai HYSCO Co., Ltd. ("HYSCO"),[159] which merged with Hyundai Steel on July 1, 2015[160] show significant levels of borrowing from KEXIM. As a result, it is likely that one or more Korean cold-rolled steel producers benefited from this program during the POI.

b. The Provision of Short-Term Export Credits to Korean Cold-Rolled Steel Producers Constitutes a Countervailable Subsidy

The Department has, on many occasions, previously determined that KEXIM short-term trade financing is countervailable.[161]

(1) Financial Contribution

The program represents a direct transfer of funds from the government to exporters. As such, the program provides a financial contribution under Section 771(5)(D)(i) of the Act.

(2) Benefit

A benefit within the meaning of Section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that the recipient pays a lower rate of interest on the loans as compared to what it would pay on a comparable short-term commercial loan. The Department has previously determined that loans from KEXIM confer benefits.[162]

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countervailing duty deter. and final negative critical circumstances deter.) at 7-8 ("Non-Oriented Electrical Steel I&D Memo").

158 Dongbu Steel Co., Ltd. Separate Financial Statements (Dec. 31, 2014 and 2013) at Notes 20-22, excerpts attached as **Exhibit X-55**.

159 Hyundai HYSCO Co., Ltd. Separate Financial Statements (Dec. 31, 2013 and 2012) at 25, excerpts attached as **Exhibit X-56**.

160 *See* Park Si-soo, *Hyundai Steel merges with Hysco*, Korea Times (July 1, 2015), attached as **Exhibit X-57**. While Hyundai Steel and HYSCO merged on July 1, 2015, Petitioners refer to HYSCO and its separate financial statements by name to distinguish their financial statements and provide clarity.

161 *See, e.g., Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea*, 75 Fed. Reg. 55,745, 55,747 (Dep't Commerce Sept. 14, 2010) (prelim. results and partial rescission of countervailing duty admin. rev.); *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 Fed. Reg. 53,413, 53,419 (Dep't Commerce Sept. 11, 2006) (prelim. results of countervailing duty admin. rev.) (unchanged at the final results, *see Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 72 Fed. Reg. 119 (Dep't Commerce Jan. 3, 2007) (final results of countervailing duty admin. rev.)); *Certain Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea*, 64 Fed. Reg. 73,176, 73,180-81 (Dep't Commerce Dec. 29, 1999) (final affirmative countervailing duty deter.).

162 *See, e.g.*, Bottom Mount Refrigerators I&D Memo at 13.

(3) **Specificity**

This program is specific within the meaning of Section 771(5A)(B) of the Act because trade financing from KEXIM is contingent in law upon export performance.

2. **Export Factoring**

a. **KEXIM Provides Export Factoring to Korean Cold-Rolled Steel Producers**

KEXIM export factoring is a form of trade finance. Specifically, KEXIM provides short-term discounted loans against the trade receivables of Korean exporters resulting from open account ("O/A") transactions, including transactions on a Documents against Acceptance ("D/A") basis.[163] O/A export transactions involve sales to foreign purchasers on credit. Shipping documents are dispatched to the foreign purchaser once the product is exported and the foreign purchaser remits payment directly to the exporter's account. The factoring loans are provided by KEXIM on a "without recourse basis," meaning that KEXIM, and not the exporter, assumes risk of loss with respect to purchaser default.[164]

KEXIM's export factoring program is available to two groups of exporters: companies with experience producing or exporting the item for more than one year, and companies that have past transactions with the same foreign buyer.[165] KEXIM will provide financing for 80-100 percent of the export amount at a discounted interest rate (LIBOR + spread). A factoring fee may also apply.[166] As noted above, the most recently available financial statements from POSCO,[167] DWI,[168] Dongbu,[169] and HYSCO[170] show significant levels of borrowing from

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163 *Export Factoring*, KEXIM website excerpt (last accessed Oct. 9, 2014), attached as **Exhibit X-58**; *see also* 2013 KEXIM Annual Report, at 20 and 185, excerpts attached as **Exhibit X-59**.

164 *Export Factoring*, KEXIM website excerpt (last accessed Oct. 9, 2014), attached as **Exhibit X-58**.

165 *Id.*

166 *Id.*

167 POSCO's Separate Financial Statements (Dec. 31, 2014 and 2013) at 49, excerpts attached as **Exhibit X-53.**

168 DWI's 2012-2013 Separate Financial Statements at 46, excerpts attached as **Exhibit X-54**.

KEXIM. As a result, it is likely that one or more Korean cold-rolled steel producers benefited from this program during the POI.

b. KEXIM's Provision of Export Factoring to Korean Cold-Rolled Steel Producers Constitutes a Countervailable Subsidy

The Department has previously determined that similar KEXIM financing is countervailable and should do so here.[171]

(1) Financial Contribution

The program represents a direct transfer of funds from the government to exporters and producers. As such, the program provides a financial contribution under Section 771(5)(D)(i) of the Act.

(2) Benefit

A benefit within the meaning of Section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that the recipient pays a lower, discounted rate of interest on the loan than it would pay on a comparable short-term commercial loan.[172]

(3) Specificity

This program is specific within the meaning of Section 771(5A)(B) of the Act because trade financing from KEXIM is contingent in law upon export performance.

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169 Dongbu Steel Co., Ltd. Separate Financial Statements (Dec. 31, 2014 and 2013) at Notes 20-22, excerpts attached as **Exhibit X-55**.

170 Hyundai HYSCO Co., Ltd. Separate Financial Statements (Dec. 31, 2013 and 2012) at 25, excerpts attached as **Exhibit X-56**.

171 *See, e.g.*, *Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea*, 75 Fed. Reg. at 55,747; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 Fed. Reg. at 53,419 (unchanged at the final results, *see Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 72 Fed. Reg. 119)); *Certain Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea*, 64 Fed. Reg. at 73,180-81 (Dep't Commerce Dec. 29, 1999) (final affirmative countervailing duty deter.).

172 *See, e.g.*, Bottom Mount Refrigerators I&D Memo at 13.

3. Export Loan Guarantees

a. KEXIM Provides Export Loan Guarantees to Korean Cold-Rolled Steel Producers

KEXIM also offers general financial guarantee support for export activity. Any default by a Korean company on credit received from Korean or foreign commercial banks will be assumed by KEXIM, including the entire principal and interest on the export-related commercial loans.[173] KEXIM's export loan guarantees are provided to Korean commercial banks and foreign banks participating in export-related financings.[174] KEXIM charges a variable guarantee fee according to the risk of the underlying credit extension.[175] The most recently available financial statements for POSCO,[176] DWI,[177] Dongbu,[178] and HYSCO[179] show significant levels of borrowing from KEXIM. As a result, it is likely that one or more Korean cold-rolled steel producers benefited from this program during the POI.

b. The Provision of Export Loan Guarantees to Korean Cold-Rolled Steel Producers Constitutes a Countervailable Subsidy

The Department has previously determined that this KEXIM program is countervailable and should continue to do so here.[180]

(1) Financial Contribution

The program represents a potential direct transfer of funds and/or an assumption of liabilities and, as such, provides a financial contribution under Section 771(5)(D)(i) of the Act.[181]

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173 *Financial Guarantees*, KEXIM website excerpt (last accessed Oct. 9, 2014), attached as **Exhibit X-60**.
174 *Id.*
175 *Id.*
176 POSCO's Separate Financial Statements (Dec. 31, 2014 and 2013) at 49, excerpts attached as **Exhibit X-53**.
177 DWI's 2012-2013 Separate Financial Statements at 46, excerpts attached as **Exhibit X-54**.
178 Dongbu Steel Co., Ltd. Separate Financial Statements (Dec. 31, 2014 and 2013) at Notes 20-22, attached as **Exhibit X-55**.
179 Hyundai HYSCO Co., Ltd. Separate Financial Statements (Dec. 31, 2013 and 2012) at 25, excerpts attached as **Exhibit X-56**.
180 *See, e.g.*, Bottom Mount Refrigerators I&D Memo at 13.
181 *Id.*

(2) **Benefit**

A benefit within the meaning of Section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that the recipient pays a lower rate of interest on the loan, adjusted to take into account guarantee fees paid, than it would pay on a comparable short-term commercial loan in the absence of the guarantee.[182]

(3) **Specificity**

This program is specific within the meaning of Section 771(5A)(A) and (B) of the Act because export loan guarantees from KEXIM are contingent in law upon export performance.[183]

4. Trade Bill Rediscounting Program

a. KEXIM Provides Low-Cost Loans to Korean Cold-Rolled Steel Producers Through the Trade Bill Rediscounting Program

Under this program, exporters first discount their D/A, export letter of credit ("L/C"), or O/A with participant Korean commercial banks.[184] Those banks, in turn, discount promissory notes with KEXIM.[185] KEXIM, consequently, provides an indirect funding vehicle by which low-cost government loans are provided to exporters. Rediscounting eligible transactions utilizes trade bills with a repayment period of no longer than six months, and lump sum repayment of the principal occurs on the maturity date.[186]

The Department has previously determined that KEXIM's trade bill rediscounting program is countervailable.[187] As described by the Department, the GOK enacted the KEXIM

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182 *Id.*

183 *Id.*

184 *Rediscount on Trade Bills*, KEXIM website excerpt (last accessed Oct. 9, 2014), attached as **Exhibit X-61**. *See also* 2013 KEXIM Annual Report at 126 and 185, excerpts attached as **Exhibit X-59**.

185 *Rediscount on Trade Bills*, KEXIM website excerpt (last accessed Oct. 9, 2014), attached as **Exhibit X-61**. *See also* 2013 KEXIM Annual Report at 126 and 185, excerpts attached as **Exhibit X-59**.

186 *Rediscount on Trade Bills*, KEXIM website excerpt (last accessed Oct. 9, 2014), attached as **Exhibit X-61**. *See also* 2013 KEXIM Annual Report at 126 and 185, excerpts attached as **Exhibit X-59**.

187 *Coated Free Sheet Paper From the Republic of Korea*, 72 Fed. Reg. 17,507, 17,513 (Dep't Commerce Apr. 9, 2007) (prelim. affirmative countervailing duty deter.). *See also* Issues and Decision Memorandum accompanying

Trade Bill Rediscount Program in July 1998.[188] The program was introduced to benefit commercial banks by providing them with foreign currency for their short-term export credits. From July 1998 to May 2004, KEXIM rediscounted the actual D/A and L/C financing of exporters that had been first discounted by other commercial banks.[189] In May 2004, however, KEXIM revised its practice and established an indirect rediscount ceiling method.[190] The most recently available financial statements from POSCO,[191] DWI,[192] Dongbu,[193] and HYSCO[194] indicate that they have received significant funding from KEXIM in the past, and, consequently, likely received benefits under this program during the POI.

b. KEXIM's Trade Bill Rediscounting Program Provides Countervailable Subsidies

The Department has previously determined that similar KEXIM financing is countervailable and should continue to do so here.[195]

(1) Financial Contribution

Under Section 771(5)(B)(iii) of the Act, a subsidy exists where a government "makes a payment to a funding mechanism to provide a financial contribution, or entrusts or directs a private entity to make a financial contribution ... to a person and a benefit is thereby conferred" under circumstances where the making of the financial contribution "would normally be vested

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Coated Free Sheet Paper from the Republic of Korea, 72 Fed. Reg. 60,639 (Dep't Commerce Oct. 25, 2007) (notice of final affirmative countervailing duty deter.) at 15-17 ("Coated Free Sheet Paper I&D Memo").

188 Coated Free Sheet Paper I&D Memo at 15.

189 *Id.*

190 *Id.* at 15-16.

191 POSCO's Separate Financial Statements (Dec. 31, 2014 and 2013) at 49, excerpts attached as **Exhibit X-53**.

192 DWI's 2012-2013 Separate Financial Statements at 46, excerpts attached as **Exhibit X-54**.

193 Dongbu Steel Co., Ltd. Separate Financial Statements (Dec. 31, 2014 and 2013) at Notes 20-22, attached as **Exhibit X-55**.

194 Hyundai HYSCO Co., Ltd. Separate Financial Statements (Dec. 31, 2013 and 2012) at 25, excerpts attached as **Exhibit X-56**.

195 *See, e.g.*, Bottom Mount Refrigerators I&D Memo at 13; Issues and Decision Memorandum accompanying *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 77 Fed. Reg. 13,093 (Dep't Commerce March 5, 2012) (final results of countervailing duty admin. rev.) at 2-3.

in the government and the practice does not differ in substance from practices normally followed by governments."[196]

The KEXIM rediscount ceiling provided to commercial banks is contingent on commercial banks lending funds to Korean exporters. These commercial bank loans involve direct transfers of funds to Korean exporters within the meaning of Section 771(5)(D)(i) of the Act.[197] The lending by commercial banks to Korean exporters under this program constitutes financing activity that would normally be vested in KEXIM or other GOK policy banks. The lending practice involved under this program does not differ in substance from practices normally followed by the GOK, including the various KEXIM export financing programs described above.

(2) Benefit

A benefit within the meaning of Section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that the recipient pays a lower rate of interest on the commercial bank loans subject to the KEXIM rediscounting program than it would pay on comparable commercial loans that are not subject to the KEXIM rediscounting program.[198]

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196 19 U.S.C. § 1677(5)(B)(iii).

197 Issues and Decision Memorandum accompanying *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 74 Fed. Reg. 2,512 (Dep't Commerce Jan. 15, 2009) (final results of countervailing duty admin. rev.) at 19.

198 *See, e.g.*, Bottom Mount Refrigerators I&D Memo at 13; Issues and Decision Memorandum accompanying *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 74 Fed. Reg. 2,512 (Dep't Commerce Jan. 15, 2009) (final results of countervailing duty admin. rev.) at 19.

(3) Specificity

This program is specific within the meaning of Section 771(5A)(B) of the Act because rediscounting by KEXIM of commercial bank loans to Korean exporters is contingent in law upon export performance.[199]

5. Import Financing

a. KEXIM Provides Import Financing to Korean Cold-Rolled Steel Producers

KEXIM provides loans with repayment periods of up to two years to finance the purchase of certain imported items; these loans are up to 80 percent of the import contract amount and 100 percent for transactions using an L/C.[200] Steel inputs are eligible items.[201] KEXIM will provide financing at a fixed rate or variable rates of KORIBOR + margin for KRW loans and LIBOR + margin for foreign currency loans.[202]

Korean cold-rolled steel producers import critical steelmaking inputs, such as scrap,[203] for use in their steel production. Moreover, a number of Korean cold-rolled steel producers, including POSCO,[204] DWI,[205] Dongbu,[206] and HYSCO,[207] have received significant KEXIM funding in recent years. As a result, it is likely that one or more Korean cold-rolled steel producers benefited from this program during the POI.

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199 Bottom Mount Refrigerators I&D Memo at 13; Issues and Decision Memorandum accompanying *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 74 Fed. Reg. 2,512 (Dep't Commerce Jan. 15, 2009) (final results of countervailing duty admin. rev.) at 19.

200 *Import Credit*, KEXIM website excerpts (last accessed Oct. 9, 2014), attached as **Exhibit X-62**.

201 *Id.*

202 *Id.*

203 Korea is the second largest importer of steel scrap in the world. ISSB Trade Data, attached as **Exhibit X-63**.

204 POSCO's Separate Financial Statements (Dec. 31, 2014 and 2013) at 49, excerpts attached as **Exhibit X-53**.

205 DWI's 2012-2013 Separate Financial Statements at 46, excerpts attached as **Exhibit X-54**.

206 Dongbu Steel Co., Ltd. Separate Financial Statements (Dec. 31, 2014 and 2013) at Notes 20-22, attached as **Exhibit X-55**.

207 Hyundai HYSCO Co., Ltd. Separate Financial Statements (Dec. 31, 2013 and 2012) at 25, excerpts attached as **Exhibit X-56**.

b. KEXIM's Provision of Import Financing Constitutes a Countervailable Subsidy

The Department has previously found similar KEXIM financing programs to provide countervailable subsidies and should continue to do so here.[208]

(1) Financial Contribution

The program represents a direct transfer of funds from the government to exporters. As such, the program provides a financial contribution under Section 771(5)(D)(i) of the Act.

(2) Benefit

A benefit within the meaning of Section 771(5)(E)(ii) of the Act is conferred on the recipient under the program to the extent that the recipient pays a lower rate of interest on the loans and/or financing than it would pay on comparable commercial lending.[209]

(3) Specificity

This program is specific under Section 771(5A)(D)(iii)(IV) of the Act because of the discretion exercised by the government through KEXIM when selecting companies to participate. This program also is specific under Section 771(5A)(D)(iii)(I) of the Act because it is limited to importers of specific items only, including steel inputs.

6. Shared Growth Program

a. KEXIM Provides Financing to Korean Cold-Rolled Steel Producers Under the Shared Growth Program

The KEXIM Shared Growth Program is comprised of two sub-programs: (a) Partnership in Overseas Business and (b) Sustainable Growth with small and medium enterprises ("SMEs"). Under the Shared Growth Partnership in Overseas Business program, "the Bank provides direct and indirect financing for SMEs participating in overseas ventures or projects as suppliers for

208 *See, e.g.*, Bottom Mount Refrigerators I&D Memo at 13; Issues and Decision Memorandum accompanying *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 77 Fed. Reg. 13,093 (Dep't Commerce Mar. 5, 2012) (final results) at 2-3.

209 *See, e.g.*, Bottom Mount Refrigerators I&D Memo at 13.

large companies (which may include government agencies) that have signed MOUs for Shared Growth with the Bank."[210] Under the Shared Growth Sustainable Growth with SMEs program, "the Bank cooperates with large companies (and their local subsidiaries) with whom it has signed Shared Growth Memorandum of Understandings ("MOUs") to provide pre-shipment credits and performance guarantees for their SME partners supplying them certain designated items for their export projects."[211]

This program provides support to SMEs working with large companies that have signed MOUs for Shared Growth with the Bank in the form of general financing, financing for facility expansions, financing for local manufacturing costs, factoring of accounts receivable arising from sales to the large companies, credit lines from local banks, and pre-shipment credits and performance guarantees.[212] POSCO's recent Sustainability Report indicates that the company has received benefits under the program.[213]

b. The Shared Growth Program Provides Countervailable Subsidies

As it did in *Certain Steel Nails from the Republic of Korea*, the Department should initiate an investigation of this allegation,[214] and, for the reasons discussed below, conclude that this program provides countervailable subsidies to Korean cold-rolled steel producers.

(1) Financial Contribution

The program represents a direct transfer of funds from the government to exporters. As such, the program qualifies as a financial contribution under Section 771(5)(D)(i) of the Act. Reasonably available evidence indicates that this program provides a financial contribution

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210 *Shared Growth Program*, KEXIM website excerpt (last accessed Oct. 9, 2014), attached as **Exhibit X-64**.
211 *Id.*
212 *Id.*
213 POSCO 2013 Sustainability Report at 69-74, excerpts attached as **Exhibit X-65**.
214 *See* CVD Investigation Initiation Checklist, *Certain Steel Nails from the Republic of Korea*, C-580-875 (June 18, 2014) (PUBLIC VERSION)at 9-10, excerpts attached as **Exhibit X-66**.

under Section 771(5)(D)(i) of the Act as a direct transfer of funds from the government to exporters. The Department has previously found KEXIM to be a government authority.[215] Indeed, KEXIM is an official GOK export credit agency that provides comprehensive trade financing products to Korean exporters.[216] Moreover, through the provision of export credits, financing, and guarantees, KEXIM – *i.e.*, the government – provides exporters with a direct transfer of funds. Therefore, consistent with its findings in prior cases involving KEXIM's provision of export credits, financing, and guarantees,[217] the Department should find that this program provides a financial contribution.

Reasonably available evidence also indicates that this program provides a benefit to Korean cold-rolled producers such as POSCO. For example, POSCO actively operates 37 Shared Growth program in 6 sectors targeting suppliers as well as customers to help "enhance competitiveness."[218] As indicated above, the Shared Growth program provides significant subsidies to POSCO suppliers, provided that they continue working with the company and, in effect, act as their "partners."[219] As such, the program provides POSCO with a reliable stream of suppliers who, because of these subsidies, are able to sell POSCO supplies at uncompetitive prices. Moreover, the subsidies provided to POSCO's customers incentivizes these customers to maintain their customer relationship and allows POSCO to charge higher prices than it would otherwise charge to non-SME customers without having to expend any company resources. As

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215 *See, e.g.*, Issues and Decision Memorandum accompanying *Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea*, 77 Fed. Reg. 17,410 (Dep't Commerce Mar. 26, 2012) (final affirmative countervailing duty deter.) ("Bottom Mount Refrigerators I&D Memo") at 13; Issues and Decision Memorandum accompanying *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 77 Fed. Reg. 13,093 (Dep't Commerce Mar. 5, 2012) (final results) ("CORE from Korea I&D Memo") at 2-3, 19.

216 *See* "Developing Opportunities with Korea Eximbank," Presentation by You MI Park, Senior Loan Officer, Inter-Korean Cooperation Fund (Aug. 6, 2013), attached as **Exhibit X-49**.

217 *See, e.g.*, Bottom Mount Refrigerators I&D Memo at 13; CORE from Korea I&D Memo at 2-3, 19.

218 *Shared Growth Program*, KEXIM website excerpt (last accessed Oct. 9, 2014), attached as **Exhibit X-64**.

219 *Id.*

such, this program benefits POSCO significantly. For the aforementioned reasons, the Shared Growth program qualifies as a financial contribution under Section 771(5)(D)(i) of the Act.

(2) Benefit

A benefit within the meaning of Section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that the recipient pays a lower rate of interest on the loans and/or financing than it would pay on comparable commercial lending.[220]

(3) Specificity

This program is deemed specific within the meaning of Section 771(5A)(B) of the Act because trade financing from KEXIM is contingent in law upon export performance.

7. Overseas Investment Credit Program

a. KEXIM Extends Low-Cost Loans to Korean Cold-Rolled Steel Producers Under the Overseas Investment Credit Program

KEXIM's Overseas Investment Credit Program was established in 1976 to provide financial assistance to Korean companies through capital contributions, the acquisition of stocks, and the provision of long-term funds in order to enable these companies to make foreign investments.[221] Under this program, KEXIM extends loans to Korean companies in order to purchase foreign assets, provided that they have been doing business for more than three years in the same field as the targeted foreign asset. If an application meets all of the requirements, and the internal credit extension evaluation process conducted by the KEXIM loan officer is successful, approval is granted. According to the GOK, KEXIM calculates the borrowing enterprise's interest rate by amending a base rate to reflect factors such as delivery cost, administrative fees, credit rates, and expected profit.

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220 *See, e.g.*, Bottom Mount Refrigerators I&D Memo at 13.
221 Non-Oriented Electrical Steel I&D Memo at 18.

POSCO has previously reported receiving loans under this program.[222] As a result, there is reason to believe that POSCO and other Korean cold-rolled steel producers received loans under this program during the POI.

b. KEXIM's Overseas Investment Credit Program Provides Countervailable Subsidies

The Department has previously found this program to provide countervailable subsidies and should continue to do so here.[223]

(1) Financial Contribution

The program represents a direct transfer of funds through loans. As such, the program qualifies as a financial contribution under Section 771(5)(D)(i) of the Act.

(2) Benefit

A benefit within the meaning of Section 771(5)(E)(ii) of the Act is conferred on the recipient under the program to the extent that the recipient pays a lower rate of interest on the loans than it would pay on comparable commercial lending.

(3) Specificity

This program is specific under Section 771(5A)(D)(i) of the Act because it is limited to companies that are investing in foreign assets.

D. Korea Development Bank and Industrial Base Fund Loans

1. KDB Short-Term Discounted Loans for Export Receivables

a. The KDB Provides Short-Term Discounted Loans for Export Receivables to Korean Cold-Rolled Steel Producers

The Korea Development Bank ("KDB") has offered corporate, investment, and international banking services to Korean industry for decades. Within KDB's international banking division, several export-related services are provided: advice on documentary credit,

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[222] *Id.*

[223] *Id.* at 18-19.

negotiation of bills of exchange, collection of bills of exchange, and re-negotiation.[224] From the date of its creation until late 2009, KDB operated as a wholly state-owned institution. Although an initiative was commenced to transfer the policy and development role of KDB to the Korea Finance Corporation, KDB has remained a government-owned policy bank in order to "channel more funds to companies"[225] and "play a crucial role in stabilising {sic} the economy."[226]

As exporters, Korean cold-rolled steel producers are eligible to receive benefits under this program. The most recently available financial statements of POSCO,[227] HYSCO,[228] Dongkuk,[229] and Hyundai Steel[230] show enormous levels of borrowing from KDB.[231] For example, Hyundai Steel's financial statements indicate that it received over 3.4 trillion KRW in KDB loans in 2014.[232] The Department has previously determined that short-term export financing in the form of discounted D/A loans issued by KDB and other GOK policy banks are countervailable.[233] As it has in the past, the Department should investigate whether Korean cold-rolled steel producers received countervailable benefits under this program.

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224 *Trade Finance*, KDB website excerpt (last accessed Oct. 9, 2014), attached as **Exhibit X-67**.

225 Seonjin Cha, *Park Scraps Privatization Plan for Korea Development Bank*, Bloomberg (Aug. 27, 2013), attached as **Exhibit X-68**.

226 Song Jung-a, *South Korea Drops Development Bank Privatisation*, Financial Times (Aug. 27, 2013), attached as **Exhibit X-69**.

227 POSCO's Separate Financial Statements (Dec. 31, 2014 and 2013) at 49, excerpts attached as **Exhibit X-53**.

228 Hyundai HYSCO Co., Ltd. Separate Financial Statements (Dec. 31, 2013 and 2012) at 25, excerpts attached as **Exhibit X-56**.

229 Dongkuk Steel Mill Co., Ltd. and Subsidiaries Consolidated Financial Statements (Dec. 31, 2013 and 2012) at 37, 43, 61-62, excerpts attached as **Exhibit X-70**.

230 Hyundai Steel Company Annual Report (2014) at 98, 102, 124, excerpts attached as **Exhibit X-71**.

231 Union Steel Holdings Limited's ("Union") most recently available financial statement also indicates that it may have received loans from KDB. Though Union fails to identify the name of its lenders, the company's financial statement shows significant bank loans. Union Steel's Annual Report (2013) at 68, excerpts attached as **Exhibit X-72**.

232 Hyundai Steel Company Annual Report (2014) at 98, excerpts attached as **Exhibit X-71**.

233 *See, e.g., Coated Free Sheet Paper From the Republic of Korea*, 72 Fed. Reg. at 17,513. *See also* Coated Free Sheet Paper I&D Memo at 17-18.

b. The KDB's Provision of Short-Term Discounted Loans for Export Receivables Constitutes a Countervailable Subsidy

As it did in the current investigation of *CORE from Korea*, the Department should initiate an investigation of this allegation,[234] and, for the reasons detailed below, conclude that the KDB's provision of short-term discounted loans for export receivables constitutes a countervailable subsidy.

(1) Financial Contribution

This program represents a direct transfer of funds to Korean exporters, and as such qualifies as a financial contribution under Section 771(5)(D)(i) of the Act.[235]

(2) Benefit

A benefit within the meaning of Section 771(5)(E)(ii) of the Act is conferred on the recipient to the extent that the recipient pays a lower discounted rate of interest on the loans than it would pay on a comparable short-term commercial loan.[236]

(3) Specificity

This program is specific within the meaning of Section 771(5A)(B) of the Act because the financing offered by KDB is contingent in law upon export performance.[237]

2. Loans Under the Industrial Base Fund

a. The GOK Provides Loans to Korean Cold-Rolled Steel Producers Under the Industrial Base Fund

As the Department has previously found, the Industrial Base Fund ("IBF"), managed by MOCIE, provides policy loans to companies that expand their facilities and make investment in

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234 CVD Investigation Initiation Checklist, *Certain Corrosion-Resistant Steel Products from the Republic of Korea*, C-580-879 (June 23, 2015) (PUBLIC VERSION) at 13-14, attached as **Exhibit X-105**.

235 Coated Free Sheet Paper I&D Memo at 18.

236 *Id.*

237 *Id.*

projects that strengthen the competitiveness and productivity of national industries.[238] The IBF consists of eight parts, including the Promotion of Industrial Parts and Materials.[239] Export and import substitution activities are one of several factors that MOCIE considers when providing loans under the Promotion of Industrial Parts and Materials sub-program of the IBF.[240] Given that steel is a critical industry in Korea, and that several Korean cold-rolled steel producers have expanded their facilities and/or invested in projects that strengthen the competitiveness and productivity of national industries, reasonably available evidence indicates that Korean cold-rolled steel producers benefitted from this program during the POI.

b. The GOK's Provision of Loans Under the Industrial Base Fund Constitutes a Countervailable Subsidy

The Department has previously found that this program provides countervailable benefits to Korean producers and should continue to do so here.[241]

(1) Financial Contribution

Loans received from MOCIE constitute a financial contribution in the form of a direct transfer of funds under Section 771(5)(D)(i) of the Act.[242]

(2) Benefit

These loans confer a benefit, in accordance with Section 771(5)(E)(ii) of the Act, to the extent the amount companies pay under the program is less than what they would pay on comparable commercial loans they could obtain on the market.[243]

238 *Id.* at 15.
239 *Id.*
240 *Id.*
241 *Id.*
242 *Id.*
243 *Id.*

(3) Specificity

Because the receipt of IBF loans is contingent on export performance, the program is a *de jure* specific export subsidy within the meaning of Section 771(5A)(B) of the Act.[244]

E. Korea Trade Insurance Corporation ("K-SURE") - Export Insurance And Export Credit Guarantees

The Korea Trade Insurance Corporation ("K-SURE") was founded by the GOK in 1992 to operate export and import insurance programs for the purpose of facilitating trade.[245] In 2010, a statutory amendment increased the scope of K-SURE's authority to provide coverage for import, export, and overseas trade transactions.[246] As part of its current portfolio, K-SURE offers short-term export insurance to Korean companies.[247]

1. Short-Term Export Credit Insurance

a. K-SURE Provides Short-Term Export Credit Insurance to Korean Cold-Rolled Steel Producers

K-SURE's "Short-Term Export Credit Insurance" program insures against losses arising from default on export receivables.[248] The insurance protects against prescribed political and commercial risks where goods are shipped pursuant to an export agreement with a payment period of less than two years.[249] Claims are paid from the Export Insurance Fund,[250] which is managed by K-SURE, and financed by the state and through the collection of premiums from

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244 *Id.*

245 K-SURE 2013 Annual Report, at 2, attached as **Exhibit X-73**.

246 *Transformation to K-sure*, K-SURE website excerpt (last accessed Oct. 9, 2014), attached as **Exhibit X-74**.

247 *Short-term Export Insurance (General)*, K-SURE website excerpt (last accessed Oct. 9, 2014), attached as **Exhibit X-75**.

248 *Id.*

249 *Id.*

250 Issues and Decision Memorandum accompanying *Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 Fed. Reg. 37,122 (Dep't Commerce June 23, 2003) (final affirmative countervailing duty deter.) at 36 ("Dynamic Random Access Memory Semiconductors I&D Memo").

insured exporters.[251] Given that Korean cold-rolled steel producers are heavily export-oriented, they likely received benefits under this program during the POI.

b. K-SURE's Provision of Short-Term Export Credit Insurance Constitutes a Countervailable Subsidy

Consistent with the Department's prior findings, this program provides a countervailable subsidy to Korean cold-rolled steel producers.[252]

(1) Financial Contribution

The provision of short-term export insurance is a financial contribution in the form of a potential direct transfer of funds or liabilities within the meaning of Section 771(5)(D)(i) of the Act.

(2) Benefit

As the Department has previously determined, insurance premiums charged by K-SURE fail to adequately cover the operating losses and long-term costs of the program,[253] as is evident from the most recently available data published by K-SURE in its 2013 Annual Report.[254] The program, therefore, confers a benefit within the meaning of 19 C.F.R. § 351.520(a)(1).[255]

(3) Specificity

This program is specific within the meaning of Section 771(5A)(B) of the Act because the short-term export insurance provided by K-SURE to Korean exporters is contingent in law upon export performance.

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251 *Id.*

252 *Dynamic Random Access Memory Semiconductors From the Republic of Korea*, 68 Fed. Reg. 16,766, 16,782 (Dep't Commerce Apr. 7, 2003) (prelim. affirmative countervailing duty deter.); Dynamic Random Access Memory Semiconductors I&D Memo at 36.

253 Dynamic Random Access Memory Semiconductors I&D Memo at 36.

254 K-SURE 2013 Annual Report, at 55, attached as **Exhibit X-73.**

255 *See* Dynamic Random Access Memory Semiconductors I&D Memo at 36.

2. Export Credit Guarantees

a. K-SURE Provides Export Credit Guarantees to Korean Cold-Rolled Steel Producers

K-SURE provides export guarantees to facilitate lending for both the pre-shipment and post-shipment phases of an export transaction. Pre-shipment guarantees encourage lending to manufacturers for the purposes of acquiring inputs and processing exported goods.[256] Post-shipment guarantees secure the payment of export proceeds in the event that the purchaser fails to perform by the contracted due date.[257] Given that Korean cold-rolled steel producers are heavily export-oriented, they likely received benefits under this program during the POI.

b. K-SURE's Provision of Export Credit Guarantees Constitutes a Countervailable Subsidy

Consistent with the Department's prior findings, this program provides a countervailable subsidy to Korean cold-rolled steel producers.[258]

(1) Financial Contribution

The program represents a potential direct transfer of funds or liabilities and, as such, qualifies as a financial contribution under Section 771(5)(D)(i) of the Act.[259]

(2) Benefit

A benefit within the meaning of Section 771(5)(E)(iii) of the Act is conferred on the recipient to the extent that the recipient pays a lower interest rate on the loan, adjusted to account

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256 *Pre-shipment Export Credit Guarantee*, K-SURE website excerpt (last accessed Oct. 9, 2014), attached as **Exhibit X-76**.

257 *Post-shipment Export Credit Guarantee*, K-SURE website excerpt (last accessed Oct. 9, 2014), attached as **Exhibit X-77**.

258 Issues and Decision Memorandum accompanying *Certain Steel Nails From the Republic of Korea*, 79 Fed. Reg. 65,187 (Dep't Commerce Nov. 3, 2014) (prelim. negative countervailing duty deter. and alignment of final countervailing duty deter. with final antidumping duty deter.) at 10-11 ("Steel Nails I&D Memo"); Non-Oriented Electrical Steel I&D Memo at 25.

259 Steel Nails I&D Memo at 10.

for any K-SURE guarantee fees paid, than it would otherwise pay on a comparable short-term commercial loan in the absence of the guarantee.[260]

(3) Specificity

This program is specific within the meaning of Section 771(5A)(A) and (B) of the Act because export loan guarantees provided by K-SURE are contingent in law upon export performance.[261]

F. Energy and Resource Subsidies

1. Long-Term Loans from the Korean Resources Corporation and the Korea National Oil Corporation

a. KORES and KNOC Provide Long-Term Loans to Korean Cold-Rolled Steel Producers

The Korea National Oil Corporation ("KNOC") and Korean Resources Corporation ("KORES") first began providing long-term loans to Korean cold-rolled steel producers in 1982 in order to enhance and stabilize the supply of energy resources in Korea.[262] Several levels of government implement the program, beginning with Korea's Ministry of Trade, Industry and Energy ("MOTIE"),[263] which is the agency tasked with administering the program with assistance from the Energy and Mineral Resource Development Association of Korea ("EMRD").[264] According to the GOK, the Financing Review Board ("FRB") reviews applications and decides whether the business plan of the applicant is adequate for the assistance provided, taking into consideration, for example, the applicant's credit rating, the technical

260 *Id.*

261 *Id.*

262 Letter from Yoon & Yang LLC to Sec'y of Commerce, re: *Non-Oriented Electrical Steel from the Republic of Korea: Countervailing Duty Investigation: GOK's Response to the Department's New Subsidy Allegations Questionnaire* (Mar. 13, 2014) (PUBLIC VERSION) (Case No. C-580-873) at Appendices Section II, p. 17, excerpts attached as **Exhibit X-78**.

263 *Id.*

264 *Id.* at Appendices Section II, p. 19.

feasibility of the business, and the terms and conditions of the contract.[265] After the FRB recommends approval of the application to MOTIE and the EMRD, KNOC and KORES execute the program by disbursing funds in the form of long-term loans. KNOC and KORES are responsible for the development of oil and other natural resources, respectively.[266]

Reasonably available evidence indicates that Korean cold-rolled steel producers received benefits under this program during the POI. POSCO previously reported receiving benefits under this program,[267] and in its most recently available financial statement, the company reported over 27 billion KRW in borrowings from KNOC over the past two years.[268] Moreover, as of December 31, 2014, POSCO "provided two blank checks to {KORES} as collateral for long-term domestic borrowings, and has provided six blank promissory notes and three blanks checks to Korea National Oil Corporation as collateral for long-term foreign currency borrowings."[269] POSCO's cross-owned affiliate, DWI,[270] received over 500 billion KRW in "forgivable borrowings" from KNOC in 2012 and 2013, and almost 29 billion KRW in KORES loans during this period.[271] Further, HYSCO received over 20 billion KRW in "conditional borrowings" from KNOC in 2013, and almost 10 billion KRW in resource development fund loans from KORES in 2012.[272]

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265 *Id.* at Appendices Section II, pp. 19, 24-25.

266 *Id.* at Appendices Section II, pp. 19-25.

267 Non-Oriented Electrical Steel I&D Memo at 27-28.

268 POSCO's Separate Financial Statements (Dec. 31, 2014 and 2013) at 49, excerpts attached as **Exhibit X-53**.

269 *Id.* at 81.

270 The Department has previously found DWI and POSCO to be cross-owned such that DWI's receipt of subsidies is attributable to POSCO. Non-Oriented Electrical Steel I&D Memo at 7-8.

271 DWI's 2012-2013 Separate Financial Statements at 39, excerpts attached as **Exhibit X-54**.

272 Hyundai HYSCO Co., Ltd. Separate Financial Statements (Dec. 31, 2013 and 2012) at 25, excerpts attached as **Exhibit X-56**.

b. KORES and KNOC Loans Provide Countervailable Subsidies

The Department has previously found these programs to provide countervailable subsidies and should continue to do so here.[273]

(1) Financial Contribution

The loans provided under this program are from an authority under Section 771(5)(B) of the Act and, as a result, provide a financial contribution in the form of a direct transfer of funds under Section 771(5)(D)(i) of the Act.[274] Specifically, as the Department has previously found, "MOTIE is the government agency responsible for this program; 100 percent of the capital of KORES is funded by the GOK pursuant to the MOTIE Ministerial Notice; and under this Ministerial Decree, MOTIE delegated the authority to execute the loans provided under this program to KORES."[275] Likewise, KNOC is 100 percent state-owned[276] and receives significant annual funding from the government in the form of contributions, loans, and subsidies.[277]

(2) Benefit

A benefit is conferred under Section 771(5)(E)(ii) of the Act in the amount of the difference between the amount of interest Korean cold-rolled steel producers pay on the KORES and KNOC loans and the amount the recipients would pay on a comparable commercial loan.[278]

(3) Specificity

This program is *de jure* specific within the meaning of Section 771(5A)(D)(i) of the Act because this program is limited to companies that are investing in foreign resource extraction.[279]

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273 Non-Oriented Electrical Steel I&D Memo at 27-28.
274 *See, e.g.*, *id.* at 28.
275 *Id.*
276 U.S. Energy Information Administration, Korea, South (last updated Apr. 1, 2014), attached as **Exhibit X-2.**
277 Moody's Investor Service, *Credit Opinion: Korea National Oil Corporation*, Global Credit Research (July 6, 2011), attached as **Exhibit X-79.**
278 Non-Oriented Electrical Steel I&D Memo at 28.
279 *Id.*

2. Special Accounts for Energy and Resources ("SAER") Loans

a. KNOC Provides SAER Loans to Korean Cold-Rolled Steel Producers

Established by the Korea National Oil Corp Act in 1979, KNOC has been mandated with, among other tasks, administering Special Accounts for Energy and Resources ("SAER") funds, which are government loans provided to private energy companies for their exploration and production of oil and gas.[280] These long-term interest rate loans are granted on "favorable terms, with a discount of about 1% to Treasury rates and typically with 10-year maturities."[281] Moreover, a portion of SAER funds relating to exploration and production in the energy and natural resource sectors is cancelable if the project proves unsuccessful.[282] The funds provided to Korean cold-rolled steel producers under this program have been significant. For instance, in 2013, HYSCO borrowed 21 billion KRW in SAER loans for exploration, while POSCO borrowed 13.6 billion KRW.[283] As such, it is likely that Korean cold-rolled steel producers received benefits during the POI.

b. KNOC's Provision of SAER Loans Constitutes a Countervailable Subsidy

As it did in the current investigation of *CORE from Korea*, the Department should initiate an investigation of this allegation,[284] and, for the reasons detailed below, conclude that KNOC's provision of SAER loans constitutes a countervailable subsidy.

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280 Moody's Investor Service, *Credit Opinion: Korea National Oil Corporation*, Global Credit Research (July 6, 2011), attached as **Exhibit X-79**; Energy Information Administration, *Country Analysis Briefs: South Korea* (last updated Oct. 11, 2011), attached as **Exhibit X-80**.

281 Moody's Investor Service, *Credit Opinion: Korea National Oil Corporation*, Global Credit Research (July 6, 2011), attached as **Exhibit X-79**.

282 *Id.*

283 Korea National Oil Corporation and Subsidiaries, Consolidated Financial Statements (Dec. 31, 2013) at 62, excerpts attached as **Exhibit X-81**.

284 CVD Investigation Initiation Checklist, *Certain Corrosion-Resistant Steel Products from the Republic of Korea*, C-580-879 (June 23, 2015) (PUBLIC VERSION) at 17, attached as **Exhibit X-105**.

(1) Financial Contribution

The loans provided under this program are from an authority under Section 771(5)(B) of the Act and, as a result, provide a financial contribution in the form of a direct transfer of funds under Section 771(5)(D)(i) of the Act.

(2) Benefit

A benefit is conferred under Section 771(5)(E)(ii) of the Act in the amount of the difference between the amount of interest Korean cold-rolled steel producers pay on the KORES and KNOC loans and the amount the recipients would pay on a comparable commercial loan.

(3) Specific

This program is *de jure* specific within the meaning of Section 771(5A)(D)(i) of the Act because benefits are limited to private companies that invest in gas and oil production and exploration, such as POSCO and Hyundai Steel.

3. Clean Coal Subsidies

a. The GOK Provides Clean Coal Subsidies to Korean Cold-Rolled Steel Producers

In July 2009, Korea's Ministry of Knowledge Economy ("MKE") announced that SK Energy, South Korea's largest oil refinery by output, and POSCO signed a deal to jointly develop a manufacturing process for synthetic natural gas. Under this program, POSCO "will invest 1 trillion won to build a synthetic natural gas plant in Gwangyang, southwest of Seoul, with an expected annual output of 500,000 tonnes of gas" and "estimates that its products will replace annual imports of 200bn won of liquefied natural gas."[285] SK Energy will build a plant capable of producing 6.3 million barrels of artificial crude oil annually at a cost of 1.8 trillion KRW. The GOK will provide funding of 25 billion KRW (USD 21.6 million) towards research

285 Yvonne Chan, *South Korean industrial firms to spend $2.6bn on "clean coal" projects: SK Energy and POSCO to receive state funding for synthetic crude and gas research*, Business Green (July 27, 2009), attached as **Exhibit X-82.**

and development ("R&D") for these initiatives.[286] Given that coal, oil, and natural gas are important inputs used in the production of cold-rolled steel, this subsidy directly benefits POSCO's operations.

b. The GOK's Clean Coal Subsidies Provide a Countervailable Subsidy

As it did in the current investigation of *CORE from Korea*, the Department should initiate an investigation of this allegation,[287] and, for the reasons detailed below, conclude that the GOK's provision of clean coal subsidies constitutes a countervailable subsidy.

(1) Financial Contribution

This program provides a financial contribution under Section 771(5)(A)(D)(i) of the Act in the form of a direct transfer of funds.

(2) Benefit

This program provides a benefit under Section 771(5)(E)(i) of the Act in the amount of the funds provided.

(3) Specificity

The GOK's Clean Coal Subsidies program is specific under Section 771(5A)(D)(iii)(I) of the Act because assistance is limited to companies that invest in clean coal projects.

4. VAT Exemption for Purchases of Anthracite Coal

a. The GOK Provides a VAT Exemption for Anthracite Coal to Korean Cold-Rolled Steel Producers

The GOK generally collects a 10 percent value added tax ("VAT") on the domestic supply of goods and services and on the importation of goods.[288] Korea's Value Added Tax Act,

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[286] Yvonne Chan, *South Korean industrial firms to spend $2.6bn on "clean coal" projects: SK Energy and POSCO to receive state funding for synthetic crude and gas research*, Business Green (July 27, 2009), attached as **Exhibit X-82**; OECD, *Korea: Inventory of estimated budgetary support and tax expenditures for fossil fuels*, attached as **Exhibit X-37**.

[287] CVD Investigation Initiation Checklist, *Certain Corrosion-Resistant Steel Products from the Republic of Korea*, C-580-879 (June 23, 2015) (PUBLIC VERSION) at 17-18, attached as **Exhibit X-105**.

however, provides VAT exemptions for a limited number of goods, including briquettes and anthracite coal.[289] The Department has found this program to be used and countervailable in previous countervailing duty investigations involving the Korean cold-rolled steel industry.[290]

Reasonably available information indicates that Korean steel producers are major coal purchasers and have continued to benefit from this subsidy. In 2013, for example, Hyundai Steel entered into a long-term contract to purchase large volumes of coal from a Canadian mine.[291] Both Hyundai Steel and POSCO have also been party to long-term contracts to purchase large volumes of coal from Siberian coal mines.[292] It is thus likely that they have benefitted from this program, and the Department should initiate an investigation accordingly.

b. The GOK's Provision of a VAT Exemption for Anthracite Coal Constitutes a Countervailable Subsidy

The Department has countervailed this program in previous investigations.[293] Consistent with these findings, the Department should find that this program constitutes a countervailable subsidy here.

(1) Financial Contribution

This benefit constitutes a financial contribution in the form of revenue foregone within the meaning of Section 771(5)(D)(ii) of the Act.[294]

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288 Korean Value Added Tax Act, (wholly amended by Act No. 11873, June 7, 2013) at Art. 4, Art. 30, excerpts attached as **Exhibit X-83**.

289 *Id.* at Art. 26.

290 Issues and Decision Memorandum accompanying *Certain Cold-Rolled Carbon Steel Flat Products From the Republic of Korea*, 67 Fed. Reg. 62,102 (Dep't Commerce Oct. 3, 2002) (notice of final affirmative countervailing duty deter.) at 20-21 ("Certain Cold-Rolled Carbon Steel Flat Products I&D Memo").

291 *See Corsa Announces Hyundai Steel Contract*, PR Newswire (Apr. 3, 2013), attached as **Exhibit X-84**.

292 Cho Meeyoung, *UPDATE 1-S. Korea Hyundai Steel to Coal from Siberia, Buy* Reuters (Sept. 23, 2009), attached as **Exhibit X-85** (describing five-year contracts beginning in 2009 and 2010).

293 *See, e.g.*, Certain Cold-Rolled Carbon Steel Flat Products I&D Memo at 20-21.

294 *Id.* at 21.

(2) **Benefit**

A benefit is provided under Section 771(5)(E)(i) of the Act in the amount of VAT not paid as a result of the exemption.

(3) **Specificity**

This program is specific under Section 771(5A)(D)(i) of the Act because the items exempted from VAT payment are limited in number.[295]

G. **<u>Green Subsidies</u>**

1. **GOK Subsidies for "Green Technology R&D" and its Commercialization**

a. **The GOK Provides Green Technology Subsidies to Korean Cold-Rolled Steel Producers**

Under the Green Growth Plan, which was adopted by the GOK in January 2009, 27 core technologies have been selected for support. Specifically:

> This program provides for the establishment and enforcement of measures to facilitate research, development and commercialization of green technology, including financial support for these activities. Support is provided to approved applicants in the form of grants. The {Ministry of Knowledge Economy} determines the eligibility of the applicants for support under this program, consulting with affiliated research institutions when technological evaluation and confirmation are necessary. According to the GOK, the approval of the applicants is based on the merit of each application, and according to the requirements set by the law and MKE's internal guidelines.[296]

Reasonably available evidence indicates that Korean cold-rolled steel producers have benefitted from this program. Hyundai Steel's Dangjin plant has invested in "eco-friendly technologies" in order to reduce pollution and implemented several green-steel initiatives that "help{} reduce its carbon footprint."[297] Accordingly, Hyundai Steel appears to be eligible to benefit from this program due to its investment in eco-friendly technologies. Furthermore,

[295] *Id.*

[296] Bottom Mount Refrigerators I&D Memo at 26.

[297] Choi He-suk, *Hyundai's Steel's Dangjin Plant Brings Green Approach to Steel*, The Korea Herald (Nov. 23, 2010), attached as **Exhibit X-86**.

Dongbu recently "launched 'green' strategies to become an environment{ly} friendly 'green' company, and implemented cutting edge 'green technologies' throughout the facilities wherever necessary."[298] As a result, Dongbu has also likely benefitted from this program.

b. The GOK's Provision of Green Technology Subsidies to Korean Cold-Rolled Steel Producers Constitutes a Countervailable Subsidy

The Department has previously found this program to provide countervailable benefits and it should continue to do so here.[299]

(1) Financial Contribution

This program provides a financial contribution through a direct transfer of funds within the meaning of Section 771(5)(D)(i) of the Act.[300]

(2) Benefit

This program provides a benefit to Korean cold-rolled steel producers in the amount of the grants provided under 19 C.F.R. § 351.504(a).[301]

(3) Specificity

The program is specific within the meaning of Section 771(5A)(D)(i) of the Act because the subsidies are expressly limited by law to 27 core technologies related to "Green Technology."[302]

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298 Dongbu, *History* website excerpt (last accessed May 13, 2015), attached as **Exhibit X-87**.
299 Bottom Mount Refrigerators I&D Memo at 27.
300 *Id.*
301 *Id.* at 27, n.100.
302 *Id.* at 27.

2. Support for SME "Green Partnerships"

a. The GOK Provides Subsidies to Korean Cold-Rolled Steel Producers Through its Support for SME "Green Partnerships"

The GOK implemented the "Support for SME 'Green Partnerships'" program in 2003 in order to introduce a mechanism through which large corporations could provide SMEs with expertise and knowhow regarding environmentally friendly business management, clean production technology, and cultivation of necessary human resources.[303] As the Department has found:

> These partnerships between large corporations and SMEs allow SMEs to accumulate expertise and technologies that enable them to produce parts and materials in an environmentally friendly manner. Partnerships are jointly funded by the MKE and participating large corporations on a project-by-project basis. Large corporations who participate in the program provide funds, which are matched by the MKE. Funds are deposited in the account of the large corporation, and it is from this account that a large corporation transfers funds to participating SMEs. It is the responsibility of the large corporation to take on the role of project manager, and to provide participating SMEs with its expertise and knowhow for establishing environmentally friendly business practices.[304]

Since the program was implemented, dozens of large enterprises have participated in the program, providing assistance to hundreds of SMEs.[305] Reasonably available evidence indicates that POSCO is one of these large enterprises. Indeed, in its presentation entitled "POSCO Case Solution towards Low Carbon & Green Growth," POSCO specifically states that it is a "global green growth leader" engaged in "green partnership," including "{g}reen technology transfer to SMEs."[306]

303 Issues and Decision Memorandum accompanying *Large Residential Washers From the Republic of Korea*, 77 Fed. Reg. 75,975 (Dep't Commerce Dec. 26, 2012) (final affirmative countervailing duty deter.) at 21 ("Large Residential Washers I&D Memo").

304 *Id.*

305 *Id.*

306 POSCO Case Solution towards Low Carbon & Green Growth, attached as **Exhibit X-88**; *see also* POSCO has achieved sustainable growth in close partnership with SMEs, attached as **Exhibit X-89**.

b. The GOK's Provision of Subsidies under the SME "Green Partnerships" Constitutes a Countervailable Subsidy

The Department has countervailed this subsidy program in prior cases[307] and should continue to do so here.

(1) Financial Contribution

Consistent with the agency's findings in prior cases, funds provided under this program constitute a financial contribution in the form of a grant within the meaning of Section 771(5)(D)(i) of the Act.[308]

(2) Benefit

A benefit exists in the amount of the grant provided in accordance with 19 C.F.R. § 504(a).[309]

(3) Specificity

This program is *de jure* specific within the meaning of Section 771(5A)(D)(i) of the Act.[310]

H. Dongbu's Debt Restructuring

1. Dongbu Received Subsidies Through its Debt Restructuring

On October 22, 2014, Korean cold-rolled steel producer Dongbu entered into an agreement for the "Creditors Co-management Program" with the Creditors' Association" due to "the deterioration of {the company's} financial structure and the recession in the {Korean} steel industry."[311] According to Dongbu's fiscal year 2014 financial statement, the company incurred a net loss of 1.3 billion KRW for the year ending December 31, 2014, and its liabilities exceeded

307 Large Residential Washers I&D Memo at 21.
308 *Id.*
309 *Id.*
310 *Id.*
311 Dongbu Steel Co., Ltd. Separate Financial Statements (Dec. 31, 2014 and 2013) at Note 40, excerpts attached as **Exhibit X-55**.

its assets by 239 million KRW.[312] KDB is the main creditor of the Donbgu Group[313] and leads the Creditors' Association.[314]

This program provided Dongbu with several significant benefits during the POI. On December 22, 2014, Dongbu's financial liabilities to the Creditors' Association and other creditors due for debt-to-equity swap were finalized, resulting in significant gains from debt adjustment.[315] Dongbu's financial statement notes that the "Company is under financial support from the Creditors' Association as of December 31, 2014." Among this support includes a general loan of 500 KRW billion and an "Import L/C (Usance)" of USD 0.1 billion.[316] In addition, Dongbu's financial statement also states that as "part of the agreement for the Creditors Co-management Program, maturity of debentures amount to 143,600 million KRW has been extended until December 31, 2018 and the interest rate has been reduced to 1%,"[317] which is substantially below the 10 percent plus annual interest rate to which much of its debentures are subject.[318] In addition, Dongbu received substantial short-term borrowings, long-term borrowings, "environmental loans," "general loans," and "syndicated loans" from KDB during the POI, and 20 billion KRW and 54.5 billion KRW in "emergency loans" from KEXIM and KDB, respectively, during the same period.[319]

Furthermore, an examination of Dongbu's financial health both prior to and during the POI, and its inability to meet its financial obligations during these periods, confirms that Dongbu was unequityworthy during the POI. According to Dongbu's fiscal year 2014 financial

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312 *Id.*

313 Choi Kyong-ae, *Dongbu chief loses control of steel unit: Creditors agree to debt restructuring program*, Korea Tines (Oct. 31, 2014), attached as **Exhibit X-90**.

314 Dongbu Steel Co., Ltd. Separate Financial Statements (Dec. 31, 2014 and 2013) at Note 33, excerpts attached as **Exhibit X-55**.

315 *Id.* at Note 39.

316 *Id.*

317 *Id.* at Note 20.

318 *Id.*

319 *Id.* at Notes 20-22.

statement, the company incurred a loss of 142 million KRW in 2013.[320] Moreover, the company incurred a net loss of 1.3 billion KRW for the year ending December 31, 2014, and its liabilities exceeded its assets by 294 million KRW.[321]

The following excerpts from news articles reinforce the fact that Dongbu was in dire financial straits during this period:

- "Cash-starved Dongbu Group, South Korea's 18th-largest conglomerate, is at risk of falling into a deeper hole as its affiliates are likely to face hurdles in refinancing maturing debts following the failure of a deal to sell its key assets, analysts said Friday. Dongbu, whose business portfolio ranges from insurance and construction to steelmaking, has been under pressure from its creditors to beef up its worsening financial status. Late last year, Dongbu said it would raise 3 trillion won by selling two of its key affiliates and other assets in a bid to improve its severe financial problem. But this week, its self-rescue efforts hit a stumbling block as POSCO, the nation's biggest steelmaker, withdrew its bid for a steel mill under Dongbu Steel Co. and Dongbu Power Dangjin Corp. POSCO's withdrawal sparked concerns that Dongbu's cash shortage may further deepen, leading to a downgrade in credit ratings of its key affiliates such as Dongbu Engineering & Construction Co., Dongbu Metal Co. and Dongbu CNI Co. Their bonds were graded as 'speculative' meaning that they hold substantial risks of default... 'Dongbu's financial risk may further worsen as its self-rescue plans are expected to be further delayed,' said Yoon Su-yong, an analyst at Korea Ratings, a local rating appraiser. Dongbu's manufacturing affiliates have to refinance or pay back maturing debts worth 220 billion won (US$217 million) this year, half of which are due next month. But they have been suffering losses for the past few years with cash on hand waning. Under the current regulations, brokerages affiliated with major local conglomerates are prohibited from selling debts with speculative grades floated by their affiliates, which means they may be forced to announce a default on maturing debts unless bailed out by their creditors. 'Given the current cash flow, the refinancing of maturing debts by Dongbu affiliates is not easy,' said an analyst at Samsung Securities, asking not to be named. "Some of them may file for court receivership."[322]

- Dongbu Group faces a liquidity crisis as its creditors delayed the rollover of maturing debts worth 70 billion won ($69 million) early next month. Making things worse for the financially troubled Dongbu's self-rescue efforts, POSCO on Tuesday withdrew its plan to buy Dongbu Steel's cold-rolled steel plant in

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320 Dongbu Steel Co., Ltd. Separate Financial Statements (Dec. 31, 2014 and 2013) at 5, excerpts attached as **Exhibit X-55**.

321 *Id.* at 80, excerpts attached as **Exhibit X-55**.

322 *(LEAD) Crisis looms at cash-strapped Dongbu Group*, Yonhap New Agency (June 27, 2014), attached as **Exhibit X-91**.

Incheon and Dongbu Power's operations in Dangjin in a package deal offered by the main creditor, Korea Development Bank (KDB). POSCO, the world's sixth-biggest steelmaker by output, said it decided to drop out of the bidding for the Dongbu units due to financial reasons and lack of synergy effects it can expect from the acquisition. "We have no potential buyers which have shown an interest in the Dongbu units up for sale from the end of 2013 to date. So we will sell the units in separate deals, not in a package deal," KDB said in a statement. The state-owned bank said it will start the process within this month to sell Dongbu Power's Dangjin operations in an open competition. "After discussion with other creditors and Dongbu Group, we will later decide the details to sell Dongbu Steel's Incheon plant," the statement said.[323]

- Dongbu LED became the first Dongbu Group affiliate to file for court receivership, as Korea's 18th-largest conglomerate works to overcome the liquidity crisis in its manufacturing business. ...What's especially concerning Kim is that he is on the brink of losing control of core affiliate Dongbu Steel, the nation's third-largest steelmaker. KDB and other creditors are set to confirm measures to revive Dongbu Steel today that include 600 billion won in support, extending the debt payment deadline, conducting 53 billion won worth of debt-to-equity swaps and a capital reduction for shareholders.[324]

- Financial sources said the steelmaker has to cope with 70 billion won (US$69.2 million) worth of bonds that mature in early July. The total sum parent Dongbu Group has to pay stands at 220 billion won. The move will enable the company to avoid defaulting or finding itself strapped for money needed to run operations. Talks were arranged by Korea Development Bank (KDB), Korea Finance Corporation and Export-Import Bank of Korea, with last minute negotiations helping to persuade Korea Credit Guarantee Fund to accept the conditions. While not a creditor, the latter's support is critical because it will provide support needed to alleviate concerns of commercial lenders.[325]

As detailed above, Dongbu has suffered significant financial losses in the last few years and was on the brink of default in 2014, such that no reasonable commercial lender would have loaned the company funds during the POI. This evidence confirms that Dongbu was unequityworthy in 2014 and that Dongbu received subsidies through its debt restructuring.

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323 Choi Kyong-ae, *Dongbu faces liquidity crisis*, Korea Times (June 24, 2014), attached as **Exhibit X-92**.

324 *Dongbu affiliate seeks receivership*, INSIDE Korea JoongAng Daily (Oct. 2, 2014), attached as **Exhibit X-93**.

325 *Dongbu Steel, creditors agree on recovery plan*, Yonhap New Agency (June 30, 2014), attached as **Exhibit X-94**.

2. Dongbu's Debt Restructuring Provides a Countervailable Subsidy

As it did in the current investigation of *CORE from Korea*, the Department should initiate an investigation of this allegation,[326] and, for the reasons detailed below, conclude that Dongbu's debt restructuring constitutes a countervailable subsidy. Indeed, in prior proceedings, the Department has found similar debt restructuring programs to constitute countervailable subsidies and should do so here.[327]

a. Financial Contribution

The lending and equity provided to Dongbu in the debt work out constitutes a financial contribution from a government authority within the meaning of Section 771(5)(D)(i) of the Act.[328] As previously discussed, and as the Department has already found, both KDB and KEXIM are "government authorities."[329] Further, given that KDB is the main creditor of the Donbgu Group and leads the Creditors' Association, reasonably available evidence indicates that the Creditors' Association also constitutes a "government authority." While publicly available information on the Creditors' Association is lacking, the KDB is in the best position to know this information because it leads the Creditors' Association.[330] Given that the KDB, a government entity, controls the Association, Petitioners reasonably believe that the Creditors Association acts as an "authority." Indeed, the Creditors Association involved in Dongbu's debt restructuring appears to be the very same entity that was involved in Daewoo Group's debt-workout,[331] a

326 CVD Investigation Initiation Checklist, *Certain Corrosion-Resistant Steel Products from the Republic of Korea*, C-580-879 (June 23, 2015) (PUBLIC VERSION) at 20, attached as **Exhibit X-105**.

327 *See, e.g.*, Non-Oriented Electrical Steel I&D Memo at 19-25.

328 *See, e.g.*, *id.* at 23.

329 *See supra* Part V.B and V.C.

330 Dongbu Steel Co., Ltd. Separate Financial Statements (Dec. 31, 2014 and 2013) at Note 33, excerpts attached as **Exhibit X-55**.

331 *See, e.g.*, Daewoo Engineering & Construction Co., Ltd.'s Non-Consolidated Financial Statements (Dec. 31, 2010) at 69, excerpts attached as **Exhibit X-95**.

program which the Department has found to provide countervailable benefits.[332] For these reasons, and consistent with the Department's prior determinations, the lending and equity provided to Dongbu in the debt work out constitutes a financial contribution from a government authority within the meaning of Section 771(5)(D)(i) of the Act.[333]

b. Benefit

With respect to the debt-to-equity conversion, a benefit exists under Section 771(5)(E)(i) of the Act and 19 C.F.R. § 351.507(a) to the extent that the investment decision is inconsistent with the usual investment practices of private investors in other countries, including practices regarding the provision of risk capital.[334] Furthermore, Dongbu's receipt of loans from KDB and KEXIM provides a benefit under Section 771(5)(E)(ii) of the Act and 19 C.F.R. § 351.505 to the extent that the interest paid on these loans is less than the interest that Dongbu would pay on a comparable commercial loan.[335]

c. Specificity

Because the program's sole user is Dongbu, it is specific pursuant to Section 771(5A)(D)(iii)(II) of the Act.[336]

I. <u>Daewoo International Corporation Debt Work Out</u>

1. DWI Received Subsidies Through its Debt Work Out

In 1999, the Daewoo Group was dissolved due to unsustainable debt load and the 12 companies of the Daewoo Group, including Daewoo Corporation, were placed into separate

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332 Large Residential Washers I&D Memo at 9.
333 *See, e.g.*, Non-Oriented Electrical Steel I&D Memo at 23.
334 *See, e.g.*, *id.* at 24.
335 *See, e.g.*, *id.* at 25.
336 *See, e.g.*, *id.* at 24.

work out programs under the Corporate Restructuring Act ("CRA").[337] As the Department explained in its recent investigation of *Non-Oriented Electrical Steel from Korea*:

> Daewoo Corporation, along with all the Daewoo Group companies, entered into workout programs on August 26, 1999. On March 15, 2000, the Creditors' Council of the Daewoo Corporation established under the CRA made an agreement to transfer certain of Daewoo Corporations' liabilities by spinning them off to DWI, formerly the international trading division of Daewoo Corporation, and to Daewoo Engineering & Construction Co. (Daewoo E&C), formerly the construction division of Daewoo Corporation, which resulted in DWI becoming a primary debtor, or guarantor, for those carried-over liabilities. As a result of this agreement, DWI was incorporated on December 27, 2000. Under the workout program, DWI's Creditors' Council determined to restructure the liabilities transferred to DWI in three separate debt restructurings using the following methods: (1) debt-for-equity swaps by the creditors on December 31, 2000; (2) debt transferred to equity through the issuance of convertible bonds on December 29, 2001, which were to be exchanged for shares; and (3) extensions of debt maturities and the revision of interest rates.[338]

Though there was no debt forgiveness under the workout program, DWI's creditors agreed to convert a certain sum of debt into equity.[339] Yet, this debt was never converted into equity by the creditors, as K-SURE made payments to these creditors on DWI's behalf, thereby effectively providing debt forgiveness.[340]

DWI's work out program was terminated on December 30, 2003.[341] However, DWI continued to receive benefits under this program as recently as 2012 and likely received benefits during the POI. As the Department has previously found, POSCO and DWI are cross-owned within the meaning of 19 C.F.R. § 351.525(b)(6)(vi).[342] As a result, consistent with 19 C.F.R. § 351.525(c), any benefit that DWI received under this program during the POI also directly benefitted POSCO.[343]

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337 *Id.* at 19-20.
338 *Id.* at 20 (citations omitted).
339 *Id.* at 20-21.
340 *Id.*
341 *Id.* at 20.
342 *Id.* at 7.
343 *Id.* at 7-8.

2. DWI's Debt Workout Provides a Countervailable Subsidy

The Department has previously determined that DWI's debt work out provides a countervailable subsidy to POSCO and should continue to do so here.[344]

a. Financial Contribution

The lending and equity provided to DWI in the debt work out constitutes a financial contribution from authorities within the meaning of Sections 771(5)(B) and 771(5)(D)(i) of the Act.[345]

b. Benefit

With respect to the debt-to-equity conversion, a benefit exists under Section 771(5)(E)(i) of the Act and 19 C.F.R. § 351.507(a) to the extent that the investment decision is inconsistent with the usual investment practices of private investors in other countries, including practices regarding the provision of risk capital.[346] DWI's debt forgiveness provides a benefit under 19 C.F.R. § 351.508 equal to the amount of principal/interest that the government has forgiven.[347] Furthermore, DWI's interest free liability from K-SURE provides a benefit under Section 771(5)(E)(ii) of the Act and 19 C.F.R. § 351.505 to the extent that the interest paid on the K-SURE loans is less than the interest that DWI would pay on a comparable commercial loan.[348]

c. Specificity

As the Department recently determined, the Daewoo Group, which includes DWI, received 66.74 percent of the debt restructurings under the workout program.[349] Because the

344 *Id.* at 19-25.
345 *Id.* at 23.
346 *Id.* at 24.
347 *Id.* at 25.
348 *Id.*
349 *Id.* at 24.

program's predominant user is the Daewoo Group, it is specific pursuant to Section 771(5A)(D)(iii)(II) of the Act.[350]

J. Income Tax Programs

The Korean government has implemented several income tax programs in recent years, a number of which the Department has already found to provide countervailable subsidies to Korean producers. These tax programs are described below.

1. Research, Supply, or Workforce Development Investment Tax Deductions for "New Growth Engines" under RSTA Article 10(1)(1)

a. The GOK Provides Tax Benefits to Korean Cold-Rolled Steel Producers under RSTA Article 10(1)(1)

First introduced in 2010, this program was implemented to facilitate investments by Korean corporations in R&D activities relating to the New Growth Engine program.[351] Paragraph 1 of Article 9 of the Enforcement Decree is the implementing provision of Article 10(1)(1) of the Restriction of Special Taxation Act ("RSTA"), and Appendix 7 of the Enforcement Decree sets forth a list of eligible technologies that are covered by the New Growth Engine program,[352] including green technology.[353] As the Department has found, the "goal of the New Growth Engine program is to boost general national economic activities."[354] In this regard, RSTA Article 10(1)(1) offers a credit towards taxes payable by a corporation with respect to the costs of researchers and administrative personnel engaged in R&D activities related to eligible technologies listed in Appendix 7 of the Enforcement Decree and for samples, parts, and raw materials used in the course of such R&D activities.[355]

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350 *Id.*
351 Large Residential Washers I&D Memo at 9.
352 *Id.*
353 Restriction of Special Taxation Act (revised Feb. 18, 2010) at Appendix 7, attached as **Exhibit X-96**.
354 Large Residential Washers I&D Memo at 9.
355 *Id.*

Reasonably available evidence indicates that Korean cold-rolled steel producers have benefitted from this program. Dongbu, for example, recently "launched 'green' strategies to become an environment{ally} friendly 'green' company, and implemented cutting edge 'green technologies' throughout the facilities wherever necessary."[356] POSCO has also launched a number of green growth strategies, including its 2012 construction of a "green building" in Songdo, South Korea.[357]

b. Tax Benefits Provided under RSTA Article 10(1)(1) Constitute a Countervailable Subsidy

The Department has previously found this program to provide countervailable benefits and should continue to do so here.[358]

(1) Financial Contribution

The tax credits are financial contributions in the form of revenue foregone by the GOK under Section 771(5)(D)(ii) of the Act.[359]

(2) Benefit

This program provides a benefit to the recipient in the amount of the difference between the taxes that the recipient paid and the amount of taxes that the recipient would have paid in the absence of the program under 19 C.F.R. § 351.509(a)(1).[360]

(3) Specificity

As the Department previously found, the tax benefits provided under Article 10(1)(1) are specific pursuant to Section 771(5A)(D)(i) of the Act, given that eligibility for use of the program is limited to "new growth engines."[361]

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356 Dongbu, *History* website excerpt (last accessed May 13, 2015), attached as **Exhibit X-87**.

357 *See, e.g.*, Saleha Riaz, *POSCO completes green building in Songdo, South Korea*, Intelligent Building Today (Nov. 27, 2013), attached as **Exhibit X-97**.

358 Large Residential Washers I&D Memo at 9-10.

359 *Id.* at 10.

360 *Id.* at 9-10.

2. Research, Supply, or Workforce Development Expense Tax Deductions for "Core Technologies" under RSTA Article 10(1)(2)

a. The GOK Provides Tax Benefits to Korean Cold-Rolled Steel Producers under RSTA Article 10(1)(2)

Pursuant to subparagraph 2 of Article 10(1) of the RSTA, one program allows large corporations making research, supply, and/or workforce development investments in one of 18 specified "core technologies" to qualify for a tax deduction of 20 percent of such expenses in a tax year, and allows SMEs making such investments to qualify for a tax deduction of 30 percent. "Core technologies" are defined to comprise:

1. Metal
2. Technologies fundamental to production lines
3. Textile
4. Increasing energy efficiency
5. Greenhouse gas
6. Resources
7. Electricity
8. Nuclear
9. Information Security
10. Environmental Clean-up technology
11. Chemical processing
12. RFID
13. Ubiquitous computing
14. Medicine
15. Astronomy
16. Display
17. Semi-conductor
18. Carriers

b. Tax Benefits Provided under RSTA Article 10(1)(2) Constitute a Countervailable Subsidy

Consistent with the Department's findings in prior cases, this program provides countervailable subsidies.[362]

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[361] *Id.* at 10.

[362] *See id.* at 10-11.

(1) Financial Contribution

Tax deductions for research, supply, or workforce development expenses for "core technologies" represent a foregoing or non-collection of revenue that is otherwise due to the GOK and as such qualify as a financial contribution within the meaning of Section 771(5)(D)(ii) of the Act.[363]

(2) Benefit

A benefit within the meaning of 19 C.F.R. § 351.509(a)(1) is conferred on the recipient of Article 10(1)(2) RSTA tax deductions for research, supply, or workforce development expenses in the amount of the tax revenue foregone by the GOK.[364]

(3) Specificity

The eligibility and use of the GOK's research, supply, and workforce development investment tax deduction program are limited to investments pertaining to a specified and limited list of "core technologies." Thus, this program is specific both in law and in fact to an enterprise or industry under Section 771(5A)(D)(i) of the Act.[365]

363 *Id.* at 11.
364 *Id.*
365 *See id.*

3. Tax Reduction for Research and Human Resources Development under RSTA Article 10(1)(3)

a. The GOK Provides Tax Benefits to Korean Cold-Rolled Steel Producers under RSTA Article 10(1)(3)

Pursuant to RSTA Article 10(1)(3), the GOK encourages domestic corporations to invest in their respective R&D activities through tax incentives.[366] The Department has described the program as follows:

> Introduced in 1982 under the Tax Exemption and Reduction Control Law, this program aims to facilitate Korean corporate investment in research and development activities through a reduction of taxes payable for eligible expenditures. The tax reduction is administered by the NTS, under the direction of the MOSF, and manifests itself as either 40 percent of the difference between the eligible expenditures in the tax year and the average of the prior four years, or a maximum of six percent of the eligible expenditures in the current tax year. Article 10(1)(3) of the RSTA is the law authorizing the reduction, which is implemented through Article 9(3) of the Enforcement Decree of the RSTA.[367]

As domestic corporations that invest heavily in R&D, Korean cold-rolled steel producers are likely to be eligible for and receiving benefits under this program for their R&D activities.

b. Tax Benefits Provided under RSTA Article 10(1)(3) Constitute a Countervailable Subsidy

The Department has found that this program constitutes a countervailable subsidy in prior cases and should continue to do so here.[368]

(1) Financial Contribution

The provision of tax reductions constitutes a financial contribution in the form of government revenue foregone under Section 771(5)(D)(ii) of the Act.[369]

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366 Letter from Yoon & Yang LLC to Sec'y of Commerce, re: *Non-Oriented Electrical Steel from the Republic of Korea: Countervailing Duty Investigation: GOK's Response to the Department's First Supplemental Questionnaire for Government of the Republic of Korea* (Mar. 5, 2014) (PUBLIC VERSION) (Case No. C-580-873) at Appendices Section II, excerpts attached as **Exhibit X-98**.

367 Non-Oriented Electrical Steel I&D Memo at 12 (citations omitted).

368 Bottom Mount Refrigerators I&D Memo at 17-19; Large Residential Washers I&D Memo at 11-12.

369 Bottom Mount Refrigerators I&D Memo at 18; Large Residential Washers I&D Memo at 13.

(2) **Benefit**

This program provides a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(1) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program, effectively, the amount of the tax credit claimed on the tax return during the POI.[370]

(3) **Specificity**

The Department has previously found that this program is *de facto* specific pursuant to Section 771(5A)(D)(iii)(I) of the Act "because the actual number of recipients is limited in number."[371]

4. Tax Credit for Investment in Facilities for Research and Manpower under RSTA Article 11

a. The GOK Provides Tax Benefits to Korean Cold-Rolled Steel Producers under RSTA Article 11

RSTA Article 11 was implemented to improve the competitive power of businesses and create positive growth in the economy. Pursuant to Article 11 of the RSTA and its Enforcement Decree, a tax credit is provided to companies that make investments in facilities for research and manpower development or in facilities for the commercialization of new technology. Article 11 defines "facilities for research and manpower development or facilities for the commercialization of new technology" to mean those falling under any of the following categories: (1) facilities for research or experimentation as determined by the Presidential Decree; (2) facilities for vocational training as determined by the Presidential Decree; and (3) business assets for the

370 Bottom Mount Refrigerators I&D Memo at 18; Large Residential Washers I&D Memo at 13.

371 Non-Oriented Electrical Steel I&D Memo at 10, 12-13 (explaining that in 2011, "there were 460,614 corporate tax returns filed" but that only 803 companies used the program that year). *See also* Letter from Yoon & Yang LLC to Sec'y of Commerce, re: *Non-Oriented Electrical Steel from the Republic of Korea: Countervailing Duty Investigation: GOK's Response to the Department's First Supplemental Questionnaire for Government of the Republic of Korea* (Mar. 5, 2014) (PUBLIC VERSION) (Case No. C-580-873) at 13, attached as **Exhibit X-98** (including table indicating that 1,348 companies used the program in 2008, 1,717 companies did so in 2009, 1,333 companies did so in 2010, 803 companies did so in 2011, and 895 companies did so in 2012).

commercialization of such new technology as determined by the Presidential Decree.[372] This program is administered by the National Tax Service ("NTS").

b. Tax Benefits Provided under RSTA Article 11 Constitute a Countervailable Subsidy

As it did in the current investigation of *CORE from Korea*, the Department should initiate an investigation of this allegation,[373] and, for the reasons detailed below, conclude that the tax benefits provided under RSTA Article 11 constitute a countervailable subsidy.

(1) Financial Contribution

This tax reduction program constitutes a financial contribution in the form of government revenue foregone under Section 771(5)(D)(ii) of the Act.

(2) Benefit

This program confers a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a)(l) in the amount of the difference between the taxes paid by the recipient and the taxes that would have been paid by the recipient in the absence of this program – effectively, the amount of the tax credit claimed on the tax return during the POI.

(3) Specificity

This program is specific under Section 771(5A)(D)(iii) of the Act because the actual recipients of the subsidy are limited in number, namely those companies with facilities that fall within the definition of "facilities for research and manpower development or facilities for the commercialization of new technology."[374]

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372 Korean Restriction of Special Taxation Act, Ministry of Strategy and Finance (2008) at Art. 11, excerpts attached as **Exhibit X-99**.

373 CVD Investigation Initiation Checklist, *Certain Corrosion-Resistant Steel Products from the Republic of Korea*, C-580-879 (June 23, 2015) (PUBLIC VERSION) at 23, attached as **Exhibit X-105**.

374 *See* Korean Restriction of Special Taxation Act, Ministry of Strategy and Finance (2008) at Art. 11, excerpts attached as **Exhibit X-99**.

5. Tax Deductions for Investments in Energy Economizing Facilities under RSTA Article 25(2)

a. The GOK Provides Tax Benefits to Korean Cold-Rolled Steel Producers under RSTA Article 25(2)

Under Article 25(2) of the RSTA, the GOK also maintains a tax deduction for investments made in "energy economizing facilities."[375] In prior cases, the Department explained that this program allows "corporations that have made investments in facilities to enhance energy utilization efficiency or to produce renewable energy resources" to claim "a credit toward taxes payable in the amount of 10 percent of the eligible investment."[376] Pursuant to Article 144(1) of the RSTA, if a company is in a tax loss situation in a particular tax year, the company is permitted to carry forward the applicable credit under this program for five years.[377] The program is administered by the Ministry of Strategy and Finance ("MOSF").[378] Publicly available information on this program is lacking. However, given that POSCO and other Korean cold-rolled steel producers have recently invested in energy economizing facilities,[379] it is likely that they benefitted from this program during the POI.

b. Tax Benefits Provided under RSTA Article 25(2) Constitute a Countervailable Subsidy

The Department has previously found this program to be countervailable and should continue to do so here.[380]

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375 *Id.* at Art. 25-2.

376 Large Residential Washers I&D Memo at 13.

377 Bottom Mount Refrigerators I&D Memo at 19.

378 *Id.*

379 *See* Saleha Riaz, *POSCO completes green building in Songdo, South Korea*, Intelligent Building Today (Nov. 27, 2013), attached as **Exhibit X-97**.

380 Bottom Mount Refrigerators I&D Memo at 19-20.

(1) Financial Contribution

Tax deductions for investments in energy economizing facilities pursuant to RSTA Article 25(2) represent a foregoing or non-collection of revenue that is otherwise due and as such qualify as financial contributions within the meaning of Section 771(5)(D)(ii) of the Act.

(2) Benefit

A benefit within the meaning of 19 C.F.R. § 351.509(a) is conferred on the recipient of tax deductions/credits in the amount of the tax revenue foregone.

(3) Specificity

Given that eligibility and use of the RSTA Article 25(2) tax deduction are limited to investments in energy-economizing facilities, this program is specific both in law and in fact to an enterprise or industry under Sections 771(5A)(D)(i) and (iii)(IV) of the Act. The Department has previously found that this program is used by only a small number of companies, also making it *de facto* specific under Section 771(5A)(D)(iii)(I) of the Act.

6. Tax Deduction for Investment in Environmental and Safety Facilities under Article 25(3)

a. The GOK Provides Tax Benefits to Korean Cold-Rolled Steel Producers under RSTA Article 25(3)

Introduced in 2007, RSTA Article 25(3), which is implemented through Article 22(3) of the Enforcement Decree of the RSTA, is intended to motivate investments in facilities that are designed to preserve the environment.[381] According to the GOK, any entity making an investment in facilities for this purpose can apply for a ten percent tax reduction.[382] This program is administered by the NTS under the direction of the MOSF.[383] Given that POSCO has

[381] Non-Oriented Electrical Steel I&D Memo at 16.
[382] *Id.*
[383] *Id.*

reported receiving benefits under this program in prior cases,[384] there is a reasonable basis to believe that POSCO and other Korean cold-rolled steel producers benefitted from this program during the POI.

b. Tax Benefits Provided under RSTA Article 25(3) Constitute a Countervailable Subsidy

The Department has previously determined that this program provides a countervailable subsidy and should continue to do so here.[385]

(1) Financial Contribution

This program results in a financial contribution from the GOK to recipients in the form of revenue foregone, as described in Section 771(5)(D)(ii) of the Act.[386]

(2) Benefit

As set forth in 19 C.F.R. § 351.509(a), the benefit conferred on the recipient is the difference between the amount of taxes paid and the amount of taxes that would have been paid absent the program.[387]

(3) Specific

Finally, this program is *de facto* specific under Section 771(5A)(D)(iii)(I) of the Act because the actual recipients are limited in number to only those companies making investments in facilities designed to preserve the environment.[388]

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384 *See, e.g., id.*
385 *See id.*
386 *Id.*
387 *Id.*
388 *Id.*

7. GOK Facilities Investment Support Under Article 26 of the RSTA

a. The GOK Provides Tax Benefits to Korean Cold-Rolled Steel Producers under RSTA Article 26

The evidence available indicates that all levels of the GOK – central, regional, and local – provide a wide variety of subsidies for the construction, improvement, and relocation of facilities that produce the subject merchandise, as well as to expand employment by such facilities. In particular, the GOK supports facilities investments through Article 26 of the RSTA.[389] Under this program, companies located outside the Seoul Metropolitan Area ("SMA") may take a tax credit of seven percent of the eligible investment(s) in facilities. Dongbu has a facility in Incheon Industrial Complex, which is located outside of Seoul.[390] As a result, Dongbu and other Korean cold-rolled steel producers likely benefitted from this program during the POI.

b. Tax Benefits Provided under RSTA Article 26 Constitute a Countervailable Subsidy

The Department has previously determined that tax savings under Article 26 are countervailable.[391]

(1) Financial Contribution

Tax reductions under Article 26 of the RSTA represent a foregoing or non-collection of revenue that is otherwise due and as such qualify as a financial contribution within the meaning of Section 771(5)(D)(ii) of the Act.[392]

(2) Benefit

A benefit within the meaning of 19 C.F.R. § 351.509(a)(1) is conferred on the recipient of the tax reductions in the amount of the tax revenue foregone by the GOK.[393]

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389 Large Residential Washers I&D Memo at 14-15; Bottom Mount Refrigerators I&D Memo at 20-22.

390 *About Dongbu Steel*, Dongbu Steel website excerpt (last accessed May 15, 2015), attached as **Exhibit X-100**.

391 *See* Large Residential Washers I&D Memo at 14-15.

392 *Id.* at 14.

(3) **Specificity**

This program is only available outside of SMA. Therefore, it is regionally specific under Section 771(5A)(D)(iv) of the Act.[394]

8. Tax Program for Third-Party Logistics Operations Under RSTA Article 104(14)

a. The GOK Provides Tax Benefits to Korean Cold-Rolled Steel Producers under RSTA Article 104(14)

Introduced in 2007, this tax program is intended to motivate manufacturing companies to outsource logistics business operations to third parties that specialize in logistics by offering a tax incentive to do so.[395] Administered by the NTS, under the direction of MOSF, Article 104(14) of the RSTA authorizes the tax incentive, which is implemented through Article 104(14).[396] POSCO has previously reported that where a company uses third-party distribution companies (*e.g.*, an unaffiliated outside trucking company, ocean shipping company, or loading/unloading company) and pays for the distribution expenses, a company may apply for the tax credit if it meets the following two requirements set forth under Article 104(14): (1) the third-party distribution expense spent for the tax year shall be at least fifty percent or more of the total distribution expense spent by the company for the tax year; and (2) the ratio (*i.e.*, third-party distribution expense divided by total distribution expense) for the tax year shall not be lower than the ratio for the previous year.[397] According to POSCO, the tax credit limit under this program is ten percent of a company's corporate income tax.[398] Reasonably available evidence indicates that Korean cold-rolled steel producers benefitted from this program during the POI. POSCO,

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393 *Id.*
394 *Id.*
395 Non-Oriented Electrical Steel I&D Memo at 17.
396 *Id.*
397 *Id.*
398 *Id.*

for example, has previously received benefits under this program and likely continued to do so during the POI.[399]

b. Tax Benefits Provided under RSTA Article 104(14) Constitute a Countervailable Subsidy

The Department has previously determined that this program provides a countervailable subsidy and should continue to do so here.[400]

(1) Financial Contribution

This program results in a financial contribution from the GOK to recipients in the form of revenue foregone, as described in Section 771(5)(D)(ii) of the Act.[401]

(2) Benefit

As set forth in 19 C.F.R. § 351.509(a), the benefit conferred on the recipient is the difference between the amount of taxes paid and the amount of taxes that would have been paid absent the program.[402]

(3) Specificity

This program is *de facto* specific under Section 771(5A)(D)(iii)(I) of the Act because the actual recipients are limited in number.[403]

K. Global Top 10 Logistics Companies Plan

1. The GOK Provides Loans to Korean Cold-Rolled Steel Producers under the Global Top 10 Logistics Companies Plan

In June 2012, the Korean Ministry of Land, Transportation, and Maritime Affairs ("MLTM") handpicked six logistics companies and announced that it would make them "global

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399 *Id.* at 17-18.
400 *See id.*
401 *Id.* at 17.
402 *Id.* at 17-18.
403 *Id.* at 17.

top 10 logistics companies" by 2020.[404] One of the six selected logistics companies is Hyundai Glovis, a Hyundai group company that derives the vast majority of its business from transporting goods manufactured by Hyundai affiliates, including HYSCO. Hyundai Logistics, another HYSCO affiliate, was also among the six selected companies. According to MLTM, the support consists of loan assistance by KEXIM for foreign investments, and support for "nurturing logistics experts." MLTM also announced that it would expand the support to include providing funds for mergers and acquisitions.

While the subsidies are provided to Hyundai Glovis and Hyundai Logistics, HYSCO is the actual recipient of the subsidies provided pursuant to the Global Top 10 Logistics Companies Promotion Plan. As such, subsidization of Hyundai Glovis is in fact subsidization of HYSCO's affiliate companies whose goods are handled by Hyundai Glovis. More specifically, subsidies to Hyundai Glovis result in lower transportation costs to HYSCO's affiliate companies, which in turn has an effect of lowering the final prices of the goods to the purchasers, including importers or end-users in the United States. Thus, the GOK provides countervailable subsidies to Korean cold-rolled steel producers under the Global Top 10 Logistics Companies Plan.

2. The GOK's Provision of Loans under the Global Top 10 Logistics Companies Plan Constitutes a Countervailable Subsidy

As detailed below, this program provides a financial contribution and benefit, and is specific. As such, it provides a countervailable subsidy and should be investigated.

a. Financial Contribution

The program represents a potential direct transfer of funds and as such qualifies as a financial contribution under Section 771(5)(D)(i) of the Act.

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[404] *Nurturing Korean Logistics Firms into World-Class Companies: MLTM designate five Korean firms as the first would-be-world-class logistics candidates*, NewsWorld (Oct. 31, 2012), attached as **Exhibit X-101**.

b. Benefit

A benefit within the meaning of Section 771(5)(E)(iii) of the Act is conferred on the recipient to the extent that the recipient pays a lower rate of interest on the loan.

c. Specificity

The program is specific under Section 771(5A)(D)(i) of the Act because the GOK expressly limits access to the subsidy to six companies, two of which are HYSCO affiliates.

L. Subsidies to Companies Located in Certain Economic Zones

1. Tax Reductions and Exemptions in Free Economic Zones

a. The GOK Provides Tax Reductions and Exemptions to Korean Cold-Rolled Steel Producers Located in Free Economic Zones

Under the Special Act on Designation and Operation of Free Economic Zone, the GOK provides significant subsidies to foreign invested firms that operate in one of Korea's Free Economic Zones ("FEZ"). Specifically, these firms are eligible for tax and other incentives for five or seven years, subject to certain conditions.[405] The "5-year incentives" include an exemption from customs duties for five years as well as an exemption from corporate and earned income taxes for three years and a 50 percent reduction in these corporate/earned income taxes for the following two years.[406] The "7-year incentives" include an exemption from customs duties, special consumption tax, and VAT for five years and an exemption from corporate and earned income taxes for three years, with a 50 percent reduction for the following two years.[407] In addition, companies meeting the requirements for both the five and seven year incentives are exempt from paying acquisition and property taxes for 15 years.[408]

405 Korean Free Economic Zones website excerpts, attached as **Exhibit X-102**.
406 *Id.*
407 *Id.*
408 *Id.*

The requirements for receiving the "5-year incentives" are laid out on the Korean Free Economic Zones website and appear to be based primarily on investment and revenue levels:

- Manufacturing business: Invest more than $10 million;
- Tourism business: more than $10 million;
- Resort business: more than $10 million;
- International conference facilities: more than $10 million;
- Youth center facilities: more than $10 million;
- Logistics business: more than $5 million;
- Medical institution: more than $5 million;
- R&D: more than $1 million (The applicant should hire more than 10 full-time researchers who hold a Master's degree or higher and have more than 3 years' experience); and
- Project developer: The foreign investor should invest more than $30 million, or, in the case of a joint venture, the project calls for a total cost of more than $500 million and the foreign investor invests more than 50 percent of the cost.[409]

In order to receive the "7-year incentives," companies must meet one of the following requirements:

- Manufacturing business: Invest more than $30 million;
- Tourism business: more than $20 million;
- Resort business: more than $20 million;
- International conference facilities: more than $20 million;
- Youth center facilities: more than $20 million;
- Logistics business: more than $10 million;
- SOC: more than $10 million;
- Joint project: more than $30 million; and
- R&D: more than $2 million (The applicant should hire more than 10 full-time researchers who hold a Master's degree or higher and have more than 3 years' experience).[410]

A total of eight FEZs have been established in Korea: Incheon, Busan-Jinhae, Gwangyang Bay Area, Yellow Sea, Daegu-Gyeongbuk, Saemangeum-Gunsan, ChungBuk, and East Coast.[411] A number of Korean cold-rolled steel producers, including POSCO, Hyundai

409 *Id.*
410 *Id.*
411 *Id.*

Steel, Dongkuk, Dongbu, and Union have manufacturing plants in these FEZs, and, as a result, likely received benefits under this program during the POI.[412]

b. The GOK's Provision of Tax Reductions and Exemptions to Cold-Rolled Steel Producers Located in FEZs Constitutes a Countervailable Subsidy

As it did in the current investigation of *CORE from Korea*, the Department should initiate an investigation of this allegation,[413] and, for the reasons detailed below, conclude that the GOK's provision of tax reductions and exemptions to Korean cold-rolled steel producers located in FEZs constitutes a countervailable subsidy.

(1) Financial Contribution

Tax reductions and/or exemptions for investments in FEZs represent a foregoing or non-collection of revenue that is otherwise due and as such qualify as a financial contribution within the meaning of Section 771(5)(D)(ii) of the Act.

(2) Benefit

A benefit within the meaning of 19 C.F.R. § 351.509(a) is conferred on the recipient of the tax reductions/exemptions in the amount of the tax revenue foregone.

(3) Specificity

Given that eligibility and use of this program are limited to companies located in Korean FEZs, this program is regionally specific under Section 771(5A)(D)(iv) of the Act.

2. Exemptions and Reductions of Lease Fees in Free Economic Zones

a. The GOK Provides Exemptions and Reductions of Lease Fees to Korean Cold-Rolled Steel Producers Located in FEZs

Under the Special Act on Designation and Management of FEZ, Foreign Investment Promotion Act, and Local Regulation on Managing Public Properties, the GOK provides

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412 FEZ Exhibit, attached as **Exhibit X-103**.

413 CVD Investigation Initiation Checklist, *Certain Corrosion-Resistant Steel Products from the Republic of Korea*, C-580-879 (June 23, 2015) (PUBLIC VERSION) at 26, attached as **Exhibit X-105**.

exemption or reduction of lease fees to companies investing in Korean FEZs if they meet certain requirements.[414] Companies that meet the following requirements listed on the "Investment Guides" website of the Korean Free Economic Zones are eligible to have 100 percent of the lease fee waived:

- Business involving cutting-edge technologies with more than $1 million investment;
- Foreign investor invests more than $20 million;
- Average daily employment of over 300 workers;
- More than 50% of the total production will be exported and 100% of parts, components, materials will be locally procured; and
- 100% of the total production will be exported.[415]

Companies that meet the following requirements are eligible to have 75 percent of the lease fee waived:

- Foreign investor invests $10~20 million;
- Average daily employment of 200~300 workers;
- More than 50% of the total production will be exported and more than 75% of parts, components, materials will be locally procured; and
- More than 75% of the total production will be exported.[416]

Companies that meet the following requirements are eligible to have 50 percent of the lease fee waived:

- Foreign investor invests more than $5~10 million;
- Average daily employment of 100~200 workers;
- More than 50% of the total production will be exported and 50~75% of parts, components, materials will be locally procured; and
- About 50~75% of the total production will be exported.[417]

As previously indicated, a number of Korean cold-rolled steel producers, including POSCO, Hyundai Steel, Dongkuk, Dongbu, and Union have manufacturing plants in FEZs, and, as a result, likely received benefits under this program during the POI.[418]

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414 Korean Free Economic Zones website excerpts, attached as **Exhibit X-102.**

415 *Id.*

416 *Id.*

417 *Id.*

b. The GOK's Provision of Exemptions and Reductions of Lease Fees to Cold-Rolled Steel Producers Located in FEZs Constitutes a Countervailable Subsidy

As it did in the current investigation of *CORE from Korea*, the Department should initiate an investigation of this allegation,[419] and, for the reasons detailed below, conclude that the GOK's provision of exemptions and reductions of lease fees to Korean cold-rolled steel producers located in FEZs constitutes a countervailable subsidy.

(1) Financial Contribution

Exemptions or reductions of lease fees for investments in FEZs represent a foregoing or non-collection of revenue that is otherwise due and as such qualify as a financial contribution within the meaning of Section 771(5)(D)(ii) of the Act.

(2) Benefit

A benefit within the meaning of 19 C.F.R. § 351.509(a) is conferred on the recipient of the exemptions/reductions of lease fees in the amount of the lease revenue foregone.

(3) Specificity

Given that eligibility and use of this program are limited to companies located in Korean FEZs, this program is regionally specific under Section 771(5A)(D)(iv) of the Act.

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418 FEZ Exhibit, attached as **Exhibit X-103**.

419 CVD Investigation Initiation Checklist, *Certain Corrosion-Resistant Steel Products from the Republic of Korea*, C-580-879 (June 23, 2015) (PUBLIC VERSION) at 26-27, attached as **Exhibit X-105**.

3. Grants and Financial Support in Free Economic Zones

a. The GOK Provides Grants and Financial Support to Korean Cold-Rolled Steel Producers Located in FEZs

According to the FEZ Investment Guide, the GOK provides grants and financial support to companies investing in Korean FEZs. The requirements for the potential support are as follows:

- Occupancy in an industrial park may be subsidized: the difference in the lease fees and the parcel price (up to 50 percent of the regular lease fee and parcel price) - No double accounting will be allowed to a party who receives a cash subsidy;
- Cash subsidy: 5 percent of the investment amount (more than $10 million) within the upper limit of 5 billion KRW per company;
- Employment subsidy: where more than 20 persons are hired, a subsidy of 500,000 KRW per month may be paid for each new hire (for up to 6 months and the aggregate limit of 500 million KRW);
- Education and training subsidy: 100,000~500,000 KRW per month for each new hire (for up to 6 months and the aggregate limit of 500 million KRW).[420]

As previously mentioned, a number of Korean cold-rolled steel producers have manufacturing plants in FEZs and likely availed themselves to the benefits under this program during the POI.[421]

b. The GOK's Provision of Grants and Financial Support to Cold-Rolled Steel Producers Located in FEZs Constitutes a Countervailable Subsidy

As it did in the current investigation of *CORE from Korea*, the Department should initiate an investigation of this allegation,[422] and, for the reasons detailed below, conclude that the GOK's provision of grants and financial support to Korean cold-rolled steel producers located in FEZs constitutes a countervailable subsidy.

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420 Korean Free Economic Zones website excerpts, attached as **Exhibit X-102**.

421 FEZ Exhibit, attached as **Exhibit X-103**.

422 CVD Investigation Initiation Checklist, *Certain Corrosion-Resistant Steel Products from the Republic of Korea*, C-580-879 (June 23, 2015) (PUBLIC VERSION) at 28, attached as **Exhibit X-105**.

(1) **Financial Contribution**

This program provides a financial contribution through a direct transfer of funds within the meaning of Section 771(5)(D)(i) of the Act.

(2) **Benefit**

This program provides a benefit in the amount of the grant(s) according to 19 C.F.R. § 351.504(a).

(3) **Specificity**

Given that eligibility and use of this program are limited to companies located in Korean FEZs, this program is regionally specific under Section 771(5A)(D)(iv) of the Act.

4. Acquisition and Property Tax Benefits to Companies Located in Industrial Complexes

a. The GOK Provides Acquisition and Property Tax Benefits to Korean Cold-Rolled Steel Producers Located in Industrial Complexes

Pursuant to Article 46 of the Industrial Cluster Development and Factory Establishment Act, a state or local government may provide tax exemptions as prescribed by the RSTA. In accordance with this authority, Article 276 of the Local Tax Act provides that entities that acquire real estate in a designated industrial complex to construct new buildings or enlarge existing facilities are exempt from the acquisition and registration tax.[423] These entities are exempt from 50 percent of the property tax on the real estate (*i.e.*, the land, buildings, or facilities constructed or expanded) for five years from the date the tax liability becomes effective.[424] This exemption increases to 100 percent of the relevant land, buildings, or facilities that are located in an industrial complex outside of the SMA.[425] The GOK established the tax exemption program

[423] *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 76 Fed. Reg. 54,209, 54,214 (Dep't Commerce Aug. 31, 2011) (prelim. results of countervailing duty admin. rev.).
[424] *Id.*
[425] *Id.*

under Article 276 in December 1994 to provide incentives for companies to relocate from populated areas in the SMA to industrial sites in less populated parts of Korea.[426] The program is administered by the local tax officials of the county where the industrial complex is located.[427] Several Korean cold-rolled steel producers are located in industrial complexes and likely benefitted from this program during the POI. For example, Dongbu has a facility at Incheon Industrial Complex.[428]

b. The GOK's Provision of Acquisition and Property Tax Benefits to Korean Cold-Rolled Steel Producers Located in Industrial Complexes Constitutes a Countervailable Subsidy

The Department has previously determined that this program provides countervailable subsidies and should do so again here.[429]

(1) Financial Contribution

The tax reductions constitute a financial contribution in the form of revenue forgone, as described under Section 771(5)(D)(ii) of the Act.

(2) Benefit

These tax benefits provide a benefit under Section 771(5)(E) of the Act and 19 C.F.R. § 351.509(a) in the amount of the uncollected tax benefit.

(3) Specificity

The property tax exemptions provided under this program are specific under Section 771(5A)(D)(iv) of the Act because the benefits are limited to enterprises located within designated geographical regions.

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426 *Id.*

427 *Id.*

428 *About Dongbu Steel*, Dongbu Steel website excerpt (last accessed May 15, 2015), attached as **Exhibit X-100.**

429 Issues and Decision Memorandum accompanying *Coated Free Sheet Paper from the Republic of Korea*, 72 Fed. Reg. 60,639 (Dep't Commerce Oct. 25, 2007) (notice of final affirmative countervailing duty deter.) at 12.

M. Grants

1. Research and Development Grants under the Industrial Technology Innovation Promotion Act

a. The GOK Provides Korean Cold-Rolled Steel Producers R&D Grants under the Industrial Technology Innovation Promotion Act

The Department should initiate an investigation of whether Korean cold-rolled steel producers received benefits under the Industrial Technology Innovation Promotion Act ("ITIPA") program.[430] As the Department has previously observed, "{t}he GOK's Industrial Technology Innovation Promotion Act program is designed to foster new industries and enhance the competitiveness of primary industries through fundamental technology development."[431] The program is administered within the GOK by the MOTIE and the Korea Evaluation Institute of Industrial Technology ("KEIT").[432]

Under this program, the GOK provides grants to support technological development in "industrial materials" and "metal materials" in the context of Korea's "Industry Fundamental Technology Development" and "Strategic Technology Development," respectively.[433] The GOK has reported that operations for both aspects of the program are administered in the same manner:

> Pursuant to Article 11 of the Industrial Technology Innovation Promotion Act, the Korea Evaluation Institute of Industrial Technology{} ("KEIT") prepares a basic plan for the development of technology, on behalf of the {M}inister of Knowledge Economy. This plan includes the R&D projects that are eligible,

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430 *See* Letter from Morris, Manning & Martin, LLP to Sec'y of Commerce, re: *Corrosion-Resistant Carbon Steel Flat Products from Korea, Case No. C-580-818: Initial Questionnaire Response* (Dec. 3, 2012) (PUBLIC VERSION) at Exhibit Q-3, excerpts attached as **Exhibit X-104**.

431 Issues and Decision Memorandum accompanying *Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea*, 78 Fed. Reg. 55,241 (Dep't Commerce Sept. 10, 2013) (prelim. results of countervailing duty admin. rev.; 2011) at 17-18.

432 Line Pipe from Korea Prelim I&D Memo at 9.

433 Letter from Morris, Manning & Martin, LLP to Sec'y of Commerce, re: *Corrosion-Resistant Carbon Steel Flat Products from Korea, Case No. C-580-818: Initial Questionnaire Response* (Dec. 3, 2012) (PUBLIC VERSION) at Exhibits Q-3 and Q-6, excerpts attached as **Exhibit X-104**.

> describes the application process, and designates the supporting documentation that is required. The basic plan is announced to the public. Any person who wishes to participate in the program simply prepares an R&D business plan that conforms with the requirements as set forth in the basic plan and then submits the application to the Committee which then evaluates the application to see if it conforms to the terms and conditions as set forth in the basic plan. If the application is approved, MKE and the company enter into an R&D agreement and then MKE provides the grant.[434]

Pursuant to ITIPA, "{t}he costs of the R&D projects under this program are shared by the company (or research institution) and the GOK."[435] With respect to "Industry Fundamental Technology Development":

> When the project is evaluated as "successful" upon completion, the participating companies must repay 40 percent of the R&D grant to the GOK over 5 years. (When the supervising organizations are SMEs, the participating companies must repay 20 or 30 percent of the R&D grant to the GOK over 5 years.) However, when the project is evaluated as "not successful" the company does not have to repay the GOK any of the grant amount.[436]

The same holds true for "Strategic Technology Development." According to the GOK:

> When the project is evaluated as "successful" upon completion, the participating companies must repay 40 percent of the R&D grant to the GOK over 5 years. (When the supervising organizations are SMEs or SMEs pay project expense of more than 50 percent of the total private burden, the participating companies must repay 20 percent of the R&D grant to the GOK over 3 years.) However, when the project is evaluated as "not successful" the company does not have to repay the GOK any of the grant amount.[437]

As manufacturers of industrial materials, Korean cold-rolled steel producers likely received benefits under this program during the POI.

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434 *Id.*

435 *Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea*, 76 Fed. Reg. 54,209, 54,213 (Dep't Commerce Aug. 31, 2011) (prelim. results of countervailing duty admin. rev.).

436 Letter from Morris, Manning & Martin, LLP to Sec'y of Commerce, re: *Corrosion-Resistant Carbon Steel Flat Products from Korea, Case No. C-580-818: Initial Questionnaire Response* (Dec. 3, 2012) (PUBLIC VERSION) at Exhibit Q-2, excerpts attached as **Exhibit X-104**.

437 *Id.* at Exhibit Q-6.

b. The GOK Provision of R&D Grants under the ITIPA Constitutes a Countervailable Subsidy

As it did in the current investigation of *CORE from Korea*, the Department should initiate an investigation of this allegation,[438] and, for the reasons detailed below, conclude that the GOK's provision of R&D grants under the ITIPA constitutes a countervailable subsidy.

(1) Financial Contribution

For the portion of the subsidy that does not have to be repaid, the program provides cash transfers from the GOK to private enterprises and, as such, provides a financial contribution under Section 771(5)(D)(i) of the Act.[439]

(2) Benefit

A benefit exists in the amount of the grant provided in accordance with 19 C.F.R. § 351.504(a).[440] Furthermore, a benefit exists in the amount of the interest that Korean cold-rolled steel producers would have paid during the POI had they borrowed the full amount of the contingent liability loan during the POI.[441]

(3) Specificity

Because the GOK limits the provision of R&D grants to certain industries in the basic plan that KEIT forecasts will support the development of the Korean national economy, including those in the areas of "industrial materials" and "metal materials,"[442] the benefits provided by this program are *de jure* specific pursuant to Section 771(5A)(D)(i) of the Act.[443]

438 CVD Investigation Initiation Checklist, *Certain Corrosion-Resistant Steel Products from the Republic of Korea*, C-580-879 (June 23, 2015) (PUBLIC VERSION) at 28-29, attached as **Exhibit X-105**.

439 Line Pipe from Korea Prelim I&D Memo at 10.

440 *Id.*

441 *Id.*

442 Letter from Morris, Manning & Martin, LLP to Sec'y of Commerce, re: *Corrosion-Resistant Carbon Steel Flat Products from Korea, Case No. C-580-818: Initial Questionnaire Response* (Dec. 3, 2012) (PUBLIC VERSION) at Exhibits Q-2 and Q-6, excerpts attached as **Exhibit X-104**.

443 Line Pipe from Korea Prelim I&D Memo at 10.

2. Modal Shift Program

a. The GOK Provides Korean Cold-Rolled Steel Producers Subsidies under the Modal Shift Program

The Department should initiate an investigation of whether Korean cold-rolled steel producers received benefits under the GOK's modal shift program. Pursuant to Article 21 (Clause 3) of the GOK's Sustainable Transportation Logistics Development Act:

> The Minister of Land, Transport and Maritime Affairs, the Special Metropolitan City Mayor, the Metropolitan City Mayor or the head of a Si/Gun may conclude agreements on modal shift with operators and users of transportation logistics and consignors, and provide subsidies for them within a budget.[444]

The application and consideration process as well as the functioning of a "modal shift agreement" is provided for in Articles 21 through 24 of the Enforcement Decree of the Sustainable Transportation Logistics Development Act.[445] The calculation basis for grants afforded to parties under the program is provided for in Articles 14 through 16 of the Regulation on Modal Shift Agreement,[446] promulgated by the Ministry of Ocean and Fisheries.[447]

The Department has found that the GOK "established this grant program in 2010 in order to decrease greenhouse gas emissions in the transportation and logistics sector."[448] By offering financial support:

> the GOK seeks to increase rail and vessel transport, while decreasing motorized vehicle freight, in the hope that this will promote a shift towards a greater use of environment-friendly means of transportation and rebalance the method of transport in the logistics sector.[449]

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444 Letter from Yoon & Yang LLC to Sec'y of Commerce, re: *Non-Oriented Electrical Steel from the Republic of Korea: Countervailing Duty Investigation: GOK's Response to the Department's New Subsidy Allegations Questionnaire* (Mar. 13, 2014) (PUBLIC VERSION) (Case No. C-580-873) at Exhibit NSA-1, excerpts attached as **Exhibit X-78**.

445 *Id.* at Exhibit NSA-2.

446 *Id.* at Exhibit NSA-3.

447 Non-Oriented Electrical Steel I&D Memo at 26-27.

448 *Id.* at 26.

449 *Id.*

Through the modal shift program:

> the GOK provides grants from the Ministry of Land, Infrastructure and Transport to administering agencies for truck-to-rail "modal shift" entities and grants from the Ministry of Oceans and Fisheries (MOF) to administering agencies for truck-to-marine freight "modal shift" entities.[450]

It is believed that Korean cold-rolled steel producers and exporters pack subject merchandise in ocean-going intermodal containers. Accordingly, Korean cold-rolled steel producers and exporters are likely eligible for benefits under the modal shift program.

b. The GOK's Provision of Subsidies under the Modal Shift Program Constitutes a Countervailable Subsidy

The Department has previously found that this program constitutes a countervailable subsidy and should continue to do so here.[451]

(1) Financial Contribution

As this program provides direct transfers of funds from the GOK to private enterprises, this program constitutes a financial contribution under Section 771(5)(D)(i) of the Act.[452]

(2) Benefit

The Modal Shift Program provides a benefit in the amount received under 19 C.F.R. § 351.524(b)(2).[453]

(3) Specificity

This program is specific pursuant to Section 771(5A)(D)(iii)(I) of the Act because actual recipients of the benefits are limited in number.[454]

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450 *Id.*
451 *Id.* at 26-27.
452 *Id.* at 26.
453 *Id.* at 27.
454 *Id.* at 26.

3. Sharing of Working Opportunities/Employment Creating Incentives

a. The GOK Provides Korean Cold-Rolled Steel Producers Subsidies Under its Employment Promotion Policy

Part of the employment promotion policy launched by the GOK's Ministry of Employment and Labor, the Sharing of Working Opportunities/Employment Creating Incentives program was implemented to increase job opportunities through innovations and improvements.[455] This program is managed by the Korea Labor Foundation and grants incentives in the form of support for labor costs for companies that create new employment opportunities.[456] Article 20 of the Employment Insurance Act, Articles 12 and 17 of the Enforcement Decree, and the Implementation Guideline for the Employment Creation Assistance Program form the basis of this program.[457] Given that large Korean steel producers have received benefits under this program,[458] reasonably available evidence indicates that one or more Korean cold-rolled steel producers received benefits under this program during the POI.

b. The GOK's Provision of Subsidies Under its Employment Promotion Policy Constitutes a Countervailable Subsidy

As it did in the current investigation of *CORE from Korea*, the Department should initiate an investigation of this allegation,[459] and, for the reasons detailed below, conclude that the GOK's provision of subsidies under its employment promotion policy constitutes a countervailable subsidy.

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455 Line Pipe from Korea Prelim I&D Memo at 11.

456 *Id.*

457 *Id.*

458 *See, e.g.*, *id.* at 11.

459 CVD Investigation Initiation Checklist, *Certain Corrosion-Resistant Steel Products from the Republic of Korea*, C-580-879 (June 23, 2015) (PUBLIC VERSION) at 29-30, attached as **Exhibit X-105**.

(1) **Financial Contribution**

The Department has previously found that this program provides a financial contribution under Section 771(5)(D)(i) of the Act.[460]

(2) **Benefit**

This program provides a benefit in the amount of the grant provided under 19 C.F.R. § 351.304(a).[461]

(3) **Specificity**

This program is *de facto* specific under Section 771(5)(D)(iii)(I) of the Act because, as the Department has previously found, the actual number of recipients is limited in number.[462]

4. Various Government Grants Contained in Financial Statements

a. The GOK Provides Korean Cold-Rolled Steel Producers Subsidies in the form of "Government Grants"

In its audited 2013-2014 financial statement, POSCO reported receiving 5 billion KRW in "government grants" in 2013.[463] POSCO's affiliate, DWI, also reported receiving "government grants" in 2013.[464] In their most recently available financial statements, Dongkuk reported receiving 306 million KRW in "government grants;"[465] while HYSCO reported receiving over 8 billion KRW.[466]

Government grants are direct transfers of funds that provide a benefit in the amount of the grant received. In past Korean subsidy cases, the Department has consistently found that government grants constitute countervailable subsidies. While their financial statements do not

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460 Line Pipe from Korea I&D Memo at 11.

461 *Id.*

462 *Id.*

463 POSCO's Separate Financial Statements (Dec. 31, 2014 and 2013) at 8, excerpts attached as **Exhibit X-53**.

464 DWI's 2012-2013 Separate Financial Statements at 36, excerpts attached as **Exhibit X-54**.

465 Dongkuk Steel Mill Co., Ltd. and Subsidiaries Consolidated Financial Statements (Dec. 31, 2013 and 2012) at 35, excerpts attached as **Exhibit X-70**.

466 Hyundai HYSCO Co., Ltd. Separate Financial Statements (Dec. 31, 2013 and 2012) at 20, excerpts attached as **Exhibit X-56**.

indicate the specific program pursuant to which the government grant was provided, such grants are admittedly from a government authority. Because the steel industry has historically benefitted from direct transfers of funds from the GOK, there is reason to believe that the government grants listed in POSCO's, DWI's, Dongkuk's, and HYSCO's financial statements are limited in number, covering heavy industrial users such as the steel industry. As such, this subsidy program should be investigated by the Department.

b. The GOK's Provision of "Government Grants" to Korean Cold-Rolled Steel Producers Constitutes a Countervailable Subsidy

As it did in the current investigation of *CORE from Korea*, the Department should initiate an investigation of this allegation,[467] and, for the reasons detailed below, conclude that the grants provided by the GOK constitute a countervailable subsidy.

(1) Financial Contribution

The government grants provide a financial contribution under Section 771(5)(D)(i) of the Act, as direct transfers of funds from the GOK.

(2) Benefit

A benefit exists pursuant to 19 C.F.R. § 351.504(a) in the amount of the grant received.

(3) Specificity

The grants appear specific under Section 771(5A)(D)(iii)(IV) of the Act, because the relevant government authorities use their discretion when selecting these companies as the beneficiaries.

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[467] CVD Investigation Initiation Checklist, *Certain Corrosion-Resistant Steel Products from the Republic of Korea*, C-580-879 (June 23, 2015) (PUBLIC VERSION) at 30, attached as **Exhibit X-105**.

VI. MATERIAL INJURY AND THREAT OF MATERIAL INJURY TO THE DOMESTIC INDUSTRY

Petitioners allege that subsidized imports of cold-rolled steel from Korea are a cause of material injury and threaten to cause material injury to the domestic industry. The factual information in support of this allegation is provided to the Department and the International Trade Commission in **Volume I** of this petition.

VII. CONCLUSION AND REQUEST FOR INVESTIGATION

As demonstrated above, Korean producers and exporters of cold-rolled steel benefit from countervailable subsidies. Accordingly, Petitioners request that the Department initiate a CVD investigation of cold-rolled steel from Korea.

EXHIBIT LIST

Exhibit No.	Exhibit	Security
X-1	Internal Revenue Service, Pub. 946 "How to Depreciate Property" (2013) (excerpt)	Public
X-2	U.S. Energy Information Administration, *Korea, South* (last updated Apr. 1, 2014)	Public
X-3	*Kepco reports a bigger-than-expected Q4 loss*, Korea JoongAng Daily (Mar. 15, 2013)	Public
X-4	IEA, *Electricity Information* (2012) (excerpts)	Public
X-5	*South Korean energy security: finding a new way forward*, WoodMackenzie (Jan. 27, 2014)	Public
X-6	U.S. Energy Information Administration, *Japan* (last updated July 31, 2014)	Public
X-7	Letter from Yoon & Yang LLC, to Sec'y of Commerce, re: *Welded Line Pipe from the Republic of Korea: Response to the Supplemental Questionnaire* (Apr. 14, 2015) (PUBLIC VERSION) (Case No. C-580-877) (excerpts)	Public
X-8	MetalBulletin, *Iron Steel Works of the World Directory* (2014) (excerpts)	Public
X-9	Seung-Hoon Lee, *Electricity in Korea: Paper*, 2011/SOM2/SYM/009, Seoul National University (May 16, 2011)	Public
X-10	Korea Electric Power Corporation Act (last amended Dec. 5, 2002)	Public
X-11	Jin Heo, *Kepco found cutting chaebol huge power deals*, Korea JoongAng Daily (June 13, 2013)	Public
X-12	Public Complaint, *The Dumping of Certain Oil Country Tubular Goods Originating in or Exported From Chinese Taipei, India, Indonesia, the Philippines, South Korea, Thailand, Turkey, Ukraine, and Vietnam and the Subsidizing of Certain Oil Country Tubular Goods Originating in or Exported from India, Indonesia, the Philippines, South Korea, Thailand, Turkey, Ukraine, and Vietnam* (June 6, 2014) (excerpts: Exhibits 7-B-68 and 7-B-70)	Public

Exhibit No.	Exhibit	Security
X-13	Response of the Government of Korea to the Department of Commerce's Questionnaire, *Welded Line Pipe from the Republic of Korea*, CVD Original Investigation (Case No. C-580-877) (Jan. 21, 2015) (PUBLIC VERSION) (excerpts)	Public
X-14	Jane Han, *POSCO's Electricity Business Annoys KEPCO*, Korea Times (Feb. 13, 2009)	Public
X-15	Tae-Jung Yum, *Power price hikes inevitable to fend off soaring demand*, Korea JoongAng Daily (Sept. 4, 2013)	Public
X-16	Kyong-ae Choi, *KEPCO back into black after 6 years*, Korea Times (Jan. 13, 2014)	Public
X-17	Se Young Lee, *UPDATE 2 – S. Korea hikes power prices to avoid blackouts, cut KEPCO losses*, Reuters (Nov. 19, 2013)	Public
X-18	John Burton, *A turning point at KEPCO?*, Korean Times (Dec. 4, 2014)	Public
X-19	Kyungji Cho and Kyoungwha Kim, *Kepco Tariff Brake on Economy Spurs Jump in Bonds: Korea Markets*, Bloomberg (May 14, 2014)	Public
X-20	*Position in the Korean Economy*, Korean Iron & Steel Association website excerpts (last accessed Oct. 15, 2014) (includes original Korean website excerpt, an English translation, and the English version of the website)	Public
X-21	KEPCO, *Statistics of Electric Power in Korea* (May 2014) (excerpts)	Public
X-22	Kyung-don Joo, *Industries blast power price increase*, Korea JoongAng Daily (Nov. 21, 2013)	Public
X-23	IEA, *Energy Policies of IEA Countries: The Republic of Korea 2012 Review* (2012) (excerpt)	Public
X-24	United Kingdom Department of Energy & Climate Change, *Table 5.3.1 Industrial Electricity Prices in the IEA* (last updated Sept. 25, 2014)	Public
X-25	Power Business Law (Korean Original and relevant translation)	Public
X-26	Samsung Electronics, *3 years electrical charge 400 billion won Discount Coupon* (Aug. 21, 2013) (Korean original and relevant translation)	Public

Exhibit No.	Exhibit	Security
X-27	*Gov't to remove electricity subsidies for companies next year*, Yonhap News Agency (May 22, 2013)	Public
X-28	Memorandum from John Conniff, International Trade Compliance Analyst, to Melissa G. Skinner, re: *Certain Cut-To-Length Carbon-Quality Steel Plate from South Korea – Decision Memorandum on New Subsidy Allegations* (Jan. 2, 2014) (PUBLIC DOCUMENT)	Public
X-29	"Natural Gas Flow Measurement in KOGAS" Presentation by Research Fellow Ph.D Her Jae-Young, KOGAS (Sept. 20, 2014)	Public
X-30	Warner ten Kate, Lazlo Varro, and Anne-Sophia Corbeau, *International Energy Agency: Developing a Natural Gas Hub in Asia-Obstacles and Opportunities* (2013) (excerpts)	Public
X-31	POSCO Energy Brochure (2014)	Public
X-32	POSCO Energy, Incheon LNG Combined Cycle Power Plant (last accessed May 7, 2015)	Public
X-33	Anton Ming-Zhi Gao, *Regulating Gas Liberalization: A Comparative Study on Unbundling and Open Access Regimes in the US, Europe, Japan, South Korea, and Taiwan* (Oct. 2010) (excerpts)	Public
X-34	Korea Gas Corporation and Subsidiaries Consolidated Financial Statements (Dec. 31, 2013 and 2012) (excerpts)	Public
X-35	Platts Insight: 2015 Asia Energy Outlook (Oct. 2014) (excerpts)	Public
X-36	Poten & Partners, *2015-2035 LNG Market Assessment Outlook for the Kitimat LNG Terminal* (Oct. 2010) (excerpts)	Public
X-37	OECD, *Korea: Inventory of Estimated Budgetary Support and Tax Expenditures for Fossil Fuels*	Public
X-38	Charles Lee, *South Korea's Kogas to cut LNG imports in response to weaker local demand*, Platts (Nov. 20, 2014)	Public
X-39	Howard V. Rogers and Jonathan Stern, *Challenges to JCC Pricing in Asian LNG Markets,* The Oxford Institute for Energy Studies (Feb. 2014) (excerpts)	Public
X-40	KOGAS, *Our Profile* website excerpt (last accessed May 7, 2015)	Public

Exhibit No.	Exhibit	Security
X-41	KEPCO, *Overview* website excerpt (last accessed May 7, 2015)	Public
X-42	International Development Finance Club, *Korea Finance Corporation (KoFC)* website excerpt (last accessed May 7, 2015)	Public
X-43	Pipeline Network Construction and Maintenance in KOGAS (May 9, 2007)	Public
X-44	Company Overview of Hyundai Green Power Co. Ltd., Bloomberg Business	Public
X-45	Hyundai Green Power Company Profile, APEC-VC Korea	Public
X-46	Korean Electric Power Corporation, 2014 Form 20-F (excerpts)	Public
X-47	Letter from Yoon & Yang LLC to Sec'y of Commerce, re: *Welded Line Pipe from the Republic of Korea: Supplemental Questionnaire Response on Electricity Rate* (Mar. 6, 2015) (PUBLIC VERSION) (excerpts)	Public
X-48	POSCO's 2014 Form 20-F (excerpts)	Public
X-49	"Developing Opportunities with Korea Eximbank," Presentation by You MI Park, Senior Loan Officer, Inter-Korean Cooperation Fund (Aug. 6, 2013)	Public
X-50	*Overview*, Export-Import Bank of Korea website excerpt (last accessed May 12, 2015)	Public
X-51	*Filling the funding gap – Korea Eximbank*, Project Finance International (Sept. 23, 2013)	Public
X-52	*Export Loan* and *Short-term Trade Finance*, KEXIM website excerpts (last accessed Oct. 9, 2014)	Public
X-53	POSCO's Separate Financial Statements (Dec. 31, 2014 and 2013) (excerpts)	Public
X-54	DWI's 2012-2013 Separate Financial Statements (excerpts)	Public
X-55	Dongbu Steel Co., Ltd. Separate Financial Statements (Dec. 31, 2014 and 2013) (excerpts)	Public

Exhibit No.	Exhibit	Security
X-56	Hyundai HYSCO Co., Ltd. Separate Financial Statements (Dec. 31, 2013 and 2012) (excerpts)	Public
X-57	Park Si-soo, *Hyundai Steel merges with Hysco, Korea Times (July 1, 2015)*	Public
X-28	*Export Factoring* KEXIM website excerpt (last accessed Oct. 9, 2014)	Public
X-59	2013 KEXIM Annual Report (excerpts)	Public
X-60	*Financial Guarantees*, KEXIM website excerpt (last accessed Oct. 9, 2014)	Public
X-61	*Rediscount on Trade Bills*, KEXIM website excerpt (last accessed Oct. 9, 2014)	Public
X-62	*Import Credit*, KEXIM website excerpts (last accessed Oct. 9, 2014)	Public
X-63	ISSB Trade Data	Public
X-64	*Shared Growth Program*, KEXIM website excerpt (last accessed Oct. 9, 2014)	Public
X-65	POSCO 2013 Sustainability Report (excerpts)	Public
X-66	CVD Investigation Initiation Checklist, *Certain Steel Nails from the Republic of Korea*, C-580-875 (June 18, 2014) (PUBLIC VERSION) (excerpts)	Public
X-67	*Trade Finance*, KDB website excerpt (last accessed Oct. 9, 2014)	Public
X-68	Seonjin Cha, *Park Scraps Privatization Plan for Korea Development Bank*, Bloomberg (Aug. 27, 2013)	Public
X-69	Song Jung-a, *South Korea Drops Development Bank Privatisation*, Financial Times (Aug. 27, 2013)	Public
X-70	Dongkuk Steel Mill Co., Ltd. and Subsidiaries Consolidated Financial Statements (Dec. 31, 2013 and 2012) (excerpts)	Public
X-71	Hyundai Steel Company Annual Report (2014) (excerpts)	Public

Exhibit No.	Exhibit	Security
X-72	Union Steel's Annual Report (2013) (excerpts)	Public
X-73	K-SURE 2013 Annual Report	Public
X-74	*Transformation to K-sure*, K-SURE website excerpt (last accessed Oct. 9, 2014)	Public
X-75	*Short-term Export Insurance (General)*, K-SURE website excerpt (last accessed Oct. 9, 2014)	Public
X-76	*Pre-shipment Export Credit Guarantee*, K-SURE website excerpt (last accessed Oct. 9, 2014)	Public
X-77	*Post-shipment Export Credit Guarantee*, K-SURE website excerpt (last accessed Oct. 9, 2014)	Public
X-78	Letter from Yoon & Yang LLC to Sec'y of Commerce, re: *Non-Oriented Electrical Steel from the Republic of Korea: Countervailing Duty Investigation: GOK's Response to the Department's New Subsidy Allegations Questionnaire* (Mar. 13, 2014) (PUBLIC VERSION) (Case No. C-580-873) (excerpts)	Public
X-79	Moody's Investor Service, *Credit Opinion: Korea National Oil Corporation*, Global Credit Research (July 6, 2011)	Public
X-80	Energy Information Administration, *Country Analysis Briefs: South Korea* (last updated Oct. 11, 2011)	Public
X-81	Korea National Oil Corporation and Subsidiaries, Consolidated Financial Statements (Dec. 31, 2013) (excerpts)	Public
X-82	Yvonne Chan, *South Korean industrial firms to spend $2.6bn on "clean coal" projects: SK Energy and POSCO to receive state funding for synthetic crude and gas research*, Business Green (July 27, 2009)	Public
X-83	Korean Value Added Tax Act, (wholly amended by Act No. 11873, June 7, 2013) (excerpts)	Public
X-84	*Corsa announces Hyundai Steel contract*, PR Newswire (Apr. 3, 2013)	Public
X-85	Cho Meeyoung, *UPDATE 1-S. Korea Hyundai Steel to Buy Coal from Siberia*, Reuters (Sept. 23, 2009)	Public

Exhibit No.	Exhibit	Security
X-86	Choi He-suk, *Hyundai's Steel's Dangjin Plant Brings Green Approach to Steel, The Korea Herald* (Nov. 23, 2010)	Public
X-87	Dongbu, *History* website excerpt (last accessed May 13, 2015)	Public
X-88	POSCO Case Solution towards Low Carbon & Green Growth	Public
X-89	POSCO has achieved sustainable growth in close partnership with SMEs	Public
X-90	Choi Kyong-ae, *Dongbu chief loses control of steel unit: Creditors agree to debt restructuring program*, Korea Tines (Oct. 31, 2014)	Public
X-91	*(LEAD) Crisis looms at cash-strapped Dongbu Group*, Yonhap News Agency (June 27, 2014)	Public
X-92	Choi Kyong-ae, *Dongbu faces liquidity crisis*, Korea Times (June 24, 2014)	Public
X-93	*Dongbu affiliate seeks receivership*, INSIDE Korea JoongAng Daily (Oct. 2, 2014)	Public
X-94	*Dongbu Steel, creditors agree on recovery plan*, Yonhap News Agency (June 30, 2014)	Public
X-95	Daewoo Engineering & Construction Co., Ltd.'s Non-Consolidated Financial Statements (Dec. 31, 2010) (excerpts)	Public
X-96	Restriction of Special Taxation Act (revised Feb. 18, 2010)	Public
X-97	Saleha Riaz, *POSCO completes green building in Songdo, South Korea*, Intelligent Building Today (Nov. 27, 2013)	Public
X-98	Letter from Yoon & Yang LLC to Sec'y of Commerce, re: *Non-Oriented Electrical Steel from the Republic of Korea: Countervailing Duty Investigation: GOK's Response to the Department's First Supplemental Questionnaire for Government of the Republic of Korea* (Mar. 5, 2014) (PUBLIC VERSION) (Case No. C-580-873) (excerpts)	Public
X-99	Korean Restriction of Special Taxation Act, Ministry of Strategy and Finance (2008) (excerpts)	Public

Exhibit No.	Exhibit	Security
X-100	*About Dongbu Steel*, Dongbu Steel website excerpt (last accessed May 15, 2015)	Public
X-101	*Nurturing Korean Logistics Firms into World-Class Companies: MLTM designate five Korean firms as the first would-be-world-class logistics candidates*, NewsWorld (Oct. 31, 2012)	Public
X-102	Korean Free Economic Zones website excerpts	Public
X-103	FEZ Exhibit	Public
X-104	Letter from Morris, Manning & Martin, LLP to Sec'y of Commerce, re: *Corrosion-Resistant Carbon Steel Flat Products from Korea, Case No. C-580-818: Initial Questionnaire Response* (Dec. 3, 2012) (PUBLIC VERSION) (excerpts)	Public
X-105	CVD Investigation Initiation Checklist, *Certain Corrosion-Resistant Steel Products from the Republic of Korea*, C-580-879 (June 23, 2015) (PUBLIC VERSION)	Public

July 28, 2015

DOC Inv. Nos. A-570-029, C-570-030, A-351-843, C-351-844, A-533-865, C-533-866, A-588-873, A-580-881, C-580-882, **A-421-812**, A-821-822, C-821-823, A-412-824
USITC Inv. Nos. 701-TA-___-- __, and 731-TA-___ - ___
Total Pages: 737
Antidumping and Countervailing Duty Investigations

PUBLIC VERSION
Business Proprietary Information has been removed from the attached volumes of the Petitions at: Volume I, pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, 45 the Exhibit List, and Exhibits I-3-I-4 and I-9-I-15; and Volume XI, pages 7-8 and Exhibits XI-3-4, 11-12, and 14.

The Honorable Penny S. Pritzker
Secretary of Commerce
Attention: Enforcement and Compliance
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14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

Re: Petitions for the Imposition of **Antidumping** and Countervailing Duties: Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, **Netherlands**, Russia, and the United Kingdom

Dear Secretary Pritzker and Secretary Barton:

On behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics Inc., and United States Steel Corporation (collectively "Petitioners"), we hereby submit to the U.S. Department of Commerce (the "Department") petitions for the imposition of antidumping and countervailing duties on certain cold-rolled steel flat products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom (the "Petitions") pursuant to sections 701, 702(b), 731, and 732(b) of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. §§ 1671, 1671a(b), 1673 and 1673a(b)). Pursuant to the Department's regulations codified at 19 C.F.R. § 351.202(c), we hereby certify that the Petitions and required copies are being filed today with the International Trade Commission (the "Commission").

At the Department, for each of the Petitions, we are filing Volume I (Common Issues and Injury) matched with the corresponding volume that contains the country-specific information on sales at less-than-fair value or the provision of countervailable subsidies. Information pertaining to the allegations of sales at less-than-fair value for the People's Republic of China, Brazil, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom is contained in Volumes II, IV, VI, VIII, IX, XI, XII, and XIV, respectively. Information concerning the countervailable subsidies provided by the People's Republic of China, Brazil, India, the Republic of Korea, and Russia is contained in Volumes III, V, VII, X, and XIII, respectively.

At the Commission, pursuant to instructions from Secretary Barton, we are filing an original and eight copies of: the narrative portion of the business proprietary version of Volume I (Common Issues and Injury); the narrative portion of the business proprietary version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). We are also filing an original and four copies of: the narrative portion of the public version of Volume I (Common Issues and Injury); the narrative portion of the public version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). Finally, we are filing on CD-ROM complete sets of the business proprietary and public versions of the exhibits to all volumes of these Petitions in PDF format compatible with the Commission's EDIS system.

On behalf of Petitioners, we hereby request proprietary treatment for information designated as proprietary in these Petitions pursuant to the Department's regulations codified at 19 C.F.R. §§ 351.202(d) and 351.304 and the Commission's rules codified at 19 C.F.R. § 201.6(b). Business proprietary information is enclosed in single brackets ("[ ]").

The information in Volume I of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

(1) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): Exhibit I-13.

(2) *Terms of sale (but not terms of sale offered to the public) (19 C.F.R. § 351.105(c)(4)):* Exhibit I-14.

(3) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section)* (19 C.F.R. § 351.105(c)(5)): pages 31-32 and Exhibits I-4, I-12, and I-14.

(4) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)): Exhibit I-14 and Exhibit I-9.

(5) *The names of particular persons from whom business proprietary information was obtained (19 C.F.R. § 351.105(c)(9)):* Exhibit I-14.

(6) *The position of a domestic producer or workers regarding a petition* (19 C.F.R. § 351.105(c)(10)): pages 3 and 35.

(7) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, 45; and Exhibits I-3, I-10 – I-13, and I-15.

The information in the attached Volume XI of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

(1) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): Exhibit XI-4.

(2) *Distribution costs (but not channels of distribution)* (19 C.F.R. § 351.105(c)(3)): Exhibit XI-12.

(3) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): pages 7-8; and Exhibits XI-11-12 and 14.

(4) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section)* (19 C.F.R. § 351.105(c)(5)): Exhibits XI-11-12.

(5) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)): Exhibit XI-11.

(6) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): Exhibits XI-3 and 11.

(7) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 7-8; and Exhibits XI-3, 11-12, and 14.

The single-bracketed business proprietary information in the attached Volumes I and XI of these Petitions identified above is entitled to proprietary treatment in accordance with the Department's regulations codified at 19 C.F.R. § 351.304(a) and the Commission's rules codified at 19 C.F.R. § 201.6(b). Information for which proprietary treatment is requested is not available to the public. Public disclosure of this information would result in serious and substantial harm to the competitive position of the sources of the information and would impair the ability of the Department and the Commission to obtain information necessary to fulfill their statutory functions. The requisite certifications that substantially identical information is not available to the public are set forth as attachments to this letter, in accordance with the Commission's rules codified at 19 C.F.R. § 201.6(b).

Pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(b), Petitioners agree in principle to permit disclosure of the single-bracketed business proprietary information contained in these Petitions under an appropriately drawn administrative protective order ("APO"). Petitioners, however, reserve the right to comment on all APO applications prior to disclosure.

A public version of these Petitions has been prepared and is being filed simultaneously with this submission pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(c)(1) and the Commission's rules codified at 19 C.F.R. § 201.8(f). The public version contains a public summary of the single-bracketed business proprietary information in sufficient detail to permit a reasonable understanding of the contents of these Petitions.

Should you have any questions regarding these Petitions, please contact the undersigned.

Respectfully submitted,

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PUBLIC VERSION

BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION
UNITED STATES DEPARTMENT OF COMMERCE AND THE
UNITED STATES INTERNATIONAL TRADE COMMISSION

CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS
FROM THE NETHERLANDS

PETITION FOR THE IMPOSITION OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED

VOLUME XI

INFORMATION RELATING TO NETHERLANDS – ANTIDUMPING DUTIES

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July 28, 2015

TABLE OF CONTENTS

LIST OF EXHIBITS

I. ALLEGATION OF SALES AT LESS THAN FAIR VALUE

This petition seeks the imposition of antidumping duties on imports of certain cold-rolled steel flat products ("cold-rolled steel") from the Netherlands. As discussed below, Dutch producers and exporters have sold, or offered for sale, cold-rolled steel in the United States for less than fair value. Accordingly, Petitioners request that the Department initiate an investigation into whether sales are made in the United States at less than fair value. The general information required by Section 351.202 of the Department's regulations is provided in Volume I of this petition.

II. DUTCH PRODUCERS AND EXPORTERS OF COLD-ROLLED STEEL

A. Description Of The Dutch Industry

Cold-rolled steel is manufactured in the Netherlands by Tata Steel IJmuiden, B.V., Tata Steel Packaging, and Tata Steel Strip Products IJmuiden (collectively "Tata"), and by Wupperman Staal Nederland, B.V., a cold-rolling re-rolling joint venture between Tata and Wupperman Staal of Germany.[1] The names and contact information for these companies are listed in Volume I: General Issues And Injury at **Exhibit I-1**. The information provided in that exhibit is the information reasonably available to Petitioners. Petitioners believe that merchandise produced by Tata accounts for all U.S. imports of cold-rolled steel from the Netherlands during the presumptive POI of July 1, 2014 through June 30, 2015 as virtually all shipments were loaded at IJmuiden, the location of the Tata mill. *See* **Exhibit XI-1.**

[1] Tata Steel IJmuiden, B.V. ("TSIJ") is a wholly-owned subsidiary of Tata Steel Nederland, B.V. ("TSN"). TSN is a wholly-owned subsidiary of Tata Steel Netherlands Holdings, B.V. ('TSNH'), an unlisted company based in the Netherlands. TSNH is owned by Tata Steel Europe Limited ('TSE' or 'the Group'). The ultimate parent company is Tata Steel Limited ('TSL'), which is a company incorporated in India with shares listed on SSE Limited (formerly the Bombay Stock Exchange Limited), Mumbai and the National Stock Exchange of India, and with global depositary receipts listed on the London and the Luxembourg Stock Exchanges. The financial statements of TSIJ make clear that Tata Steel Packaging and Tata Steel Strip Products are part of its operations. Petitioners ask that the Department collapse the two Tata producers per 19 CFR 351.401(f).

B. Production Processes Of Tata

Tata is a fully integrated producer, beginning with the production of cold-rolled steel with self-produced coke and iron produced from the blast furnace method, converting the iron to steel in a basic oxygen furnace, and refining the steel prior to continuously casting steel slabs used in cold-rolled steel. The slabs are subsequently cold-rolled into steel coil. **Exhibit XI-2** contains additional information about Tata's production process.

C. Known Importers Of Dutch Cold-Rolled Steel

A complete list of known U.S. importers of Dutch-manufactured cold-rolled steel is contained in Volume I: General Issues And Injury at **Exhibit I-3.**

III. DUMPING MARGIN METHODOLOGY

A. Normal Value

Petitioners were unable to obtain any Dutch home market pricing information for cold-rolled steel products. *See* **Exhibit XI- 3**. Therefore, Normal Value was determined based upon an estimate of the cost of production in the home market for: (a) a specific product for which AK was able to obtain pricing for sale by Tata in the U.S. market, and (b) the average cost of production for non-specialty hot-rolled products, i.e., not painted, not coated, not tool steel, not electrical steel products. Petitioners developed cost models to estimate Tata's average cost to produce non-specialty hot-rolled coil, as well as a second model to estimate costs of the specific hot-rolled product for which Petitioners were able to obtain Tata's pricing in the U.S. market.

Petitioners do not have access to the Dutch producers' factor inputs or factor consumption rates in order to determine their costs in the Netherlands. Accordingly, Petitioners relied on AK Steel's actual direct material consumption of raw material inputs, labor usage, and energy consumption as an estimate of the Tata's factors of production.

AK Steel is an appropriate producer to use to estimate factors of production for Tata as it has a similar production process to Tata. Both AK and Tata manufacture their own coke. Both

AK and Tata are fully integrated producers using the blast furnace method of obtaining molten iron. Both AK and Tata utilize basic oxygen furnaces to manufacture steel, and both have their own cold and cold rolling mills and annealing facilities.

Petitioners then valued those factor inputs using Netherlands import statistics and other information from the Netherlands. *See* **Exhibit XI-4**. This exhibit also contains a declaration by AK Steel's cost accountant as to the source of the data provided. Factory overhead is based on Tata Steel Ijmuiden, B.V.'s fiscal year 2013-14 financial statements and is described more fully below. With the exception of financial expense, all of SG&A expenses and profit are also based on Tata Steel Ijmuiden, B.V.'s 2013-14 financial statements. Tata Steel Ijmuiden, B.V.'s ultimate parent is The Tata Steel Group of India. Tata's financial expense is determined from the ultimate parent company's 2013-14 financial statements, the latest available full year financial statements available at the time of this filing.

1. Direct materials and scrap

Petitioners calculated the Dutch producers' cost of direct materials and scrap by using the average CIF import value of these materials at the Dutch port, imported into the Netherlands for the period April 2014 through March 2015, the most recent twelve-month period available. Consistent with Departmental practice, Petitioners excluded imports from non-market economies, countries with generally-available export subsidies, and unspecified countries. See **Exhibit XI-5**. Because the import data overlap the period of investigation, Petitioners do not inflate the data to the full POI per the Department's normal practice.

Petitioners believe it is appropriate to add the costs for foreign brokerage and handling to the importation of raw materials. However, the Department recently instructed Petitioners not to add such costs to raw materials in the *Non-Oriented Electrical Steel* petitions. Tata undoubtedly incurs such costs and as such it is appropriate to add them to the estimate of raw materials costs incurred by Tata. Nevertheless, Petitioners conservatively did not add these costs to the estimated costs of raw materials in this petition. Petitioners also did not add costs for inland transportation from the port to the plant. A map of Tata's IJmuiden Works shows that the wharfs are close to the plant. See **Exhibit XI-2**. To the extent that Tata incurs any costs for inland freight movement of raw materials, Petitioners have understated the costs to produce cold-rolled steel in Britain.

Moreover, Tata produces its steel slabs at its IJmuiden works. Tata produces cold-rolled steel at IJmuiden, but also has a minority joint-venture relationship for finishing certain cold-rolled steel and galvanized steel, Wuppermann Staal Nederland B.V., located in Moerdijk, NL. See **Exhibit XI-2**. The Moerdijk Works is approximately 123 kilometers from the IJmuiden facility. See **Exhibit XI-2**. The Moerdijk Works is only a rolling mill and galvanizing facility and must receive hot- or cold-rolled coil from IJmuiden. Petitioners have no way to determine how much coil is sent to Moerdijk to be re-rolled compared to material that is processed at IJmuiden. Therefore, Petitioners do not estimate a cost for transferring coils from IJmuiden to Moerdijk. To the extent that any coil is transferred to Moerdijk for re-rolling into cold-rolled steel, Petitioners understate the cost of producing cold-rolled steel at Tata's Dutch plants.

2. Labor

Petitioners valued labor using information published by the U.S. Bureau of Labor Statistics, *International Labor Comparisons: International Comparisons of Hourly Compensation Costs in Manufacturing Industries, by Industry, 2008-2012*. According to these data, in 2012, the Dutch hourly compensation costs for the manufacture of basic metals (ISIC 24) was US$ 55.77/hour. *See* **Exhibit XI-6**. Petitioners calculated the Dutch producers' cost of labor (wages and benefits) by inflating this value to the POI using the Dutch CPI. *See* **Exhibit XI-6**.

The resulting labor rate is US$ 55.77/hour. *Id.*

3. Energy and utilities

Petitioners relied upon publicly available information to value electricity, natural gas, steam, and water in the Netherlands. The latest available electricity rates for industrial uses, as reported in the latest available edition of *Energy Prices & Taxes,* published by the International Energy Agency ("EIA") is the second quarter of 2014. This period overlaps the POI. The rate is 71.60 Euro ("GBP") per 1,000 kilowatt-hour for the second quarter of 2014 or US$0.0920 per kilowatt hour after converting to U.S. dollars using the POI exchange rate). These rates exclude taxes. Petitioners did not inflate the electricity rates to the full POI per the Department's normal practice of not inflating or deflating input values if the values overlap part of the POI. *See* **Exhibit XI-7**. Petitioners used the same EIA publication to value natural gas. The latest available data from the Netherlands, covers the final three quarters of 2014, a period that overlaps the POI. The rates for the final three quarters of 2014 were 27.90, 25.70, and 25.70, respectively, with an average rate of 26.43 Euro per megawatt hour gross caloric value ("GCV"). These rates exclude taxes. Petitioners converted this amount to Euro/mmBTU and then to US$/mmBTU using universal conversion factors. Petitioners then adjusted this value to a POI value of US$ 9.9491/mmBTU. *See* **Exhibit XI-7**.

Exchange rates for the POI used in the energy calculations are presented in **Exhibit XI-8**.

Petitioners valued steam using the Department's current practice of assigning steam an value based on the heat value of steam as 14.52 percent of the input value of natural gas. *See New Pneumatic Off-the-Road Tires. See* **Exhibit XI-7**.

Rates for both treated and untreated water for 2015-16 were obtained from the Association of Dutch Water Companies (Vewin). The latest available data were for 2010. Petitioners took the industrial user rates for treated (drinking) water and untreated (other) water for 2010 which denominated in Euro per cubic meter, converted these amounts to Euros per 1000 gallons, and inflated these values to the POI using the Dutch Producer Price Index obtained from the IMF. Petitioners then converted these Euro rates to U.S. Dollars using the POI Average USD/Euro exchange rate. *See* **Exhibit XI-9**.

4. Factory overhead, SG&A, and Profit

Petitioners used Tata Steel IJmuiden B.V.'s unconsolidated financial statements for the period ending March 31, 2014 to calculate financial ratios. Factory overhead was calculated as a percentage of direct material, labor, and energy. SG&A excluding net interest expense was calculated as a ratio of SG&A expense as a function of materials, labor, energy, and factory overhead.

See **Exhibit XI-10** for the financial ratio calculation worksheet and copies of Tata Steel IJmuiden B.V.'s audited financial statements.

Petitioners used the information provided in Tata Steel Group's consolidated financial statements to derive financial ratios as it is the ultimate parent company of Tata Steel IJmuiden B.V. *See* **Exhibit XI-10.**

Petitioners compared the cost of production as calculated above to the ex-factory prices of contained in the quotation as well as the average ex-factory price of exports of non-specialty cold-rolled products exported to the United States. In both cases, the ex-factory prices were substantially below the estimated costs of production. Accordingly, Petitioner based Normal Value on Constructed Value ("CV").

With regard to the calculation of CV, Tata Steel UK, Ltd. had a profit of 4.17 percent as a function of combined materials, labor, energy, and factory overhead, SG&A, and financial costs. Petitioners have used the 4.17 percent profit rate in its calculation of CV.

5. Packing inputs

The packing costs reflected in the cost model are conservative in that they relate to domestic shipments which contain little packaging materials. Indeed, Petitioners only included costs for labor and energy consumed in the packing operations. Packaging for ocean-going shipments is usually more advanced in order to protect the steel from the elements. Petitioners valued the labor associated with packing using the surrogate labor rate, as described in the direct materials section, above. To the extent that Tata's packaging is more elaborate than AK Steel's, constructed value is understated.

IV. EXPORT PRICE

A. Export Price Based On A Price Quotation And Official U.S. Import Statistics

Petitioners obtained an actual price quotation for Netherlands-produced cold-rolled steel from Tata to [ ] in the United States. **Exhibit XI-11** contains a summary of the quotation data and a declaration from the AK Steel employee who obtained the information.

As the summary sheet notes, the base price of the quotation was [ ]. The quotation also included [ ]. Petitioners added [ ] and determined the price on an FOB Delivered port basis. Because the product is on an [ ]. This price is the starting price in the calculation of Export Price and the calculation of dumping duties contained in **Exhibit XI-12.**

Petitioners calculated U.S. brokerage and handling charges using the average cost of brokerage and handling expenses reported for importing goods into the United States in *Doing Business 2015: United States* published by the World Bank. *See* **Exhibit XI-13.**

There are no import duties on cold-rolled steel from the Netherlands so no deduction was made for duties.

To estimate ocean freight and insurance charges, Petitioners obtained the CIF and Customs Values as well as import quantities for shipments from the Netherlands to the port of unlading for the POI. *See* **Exhibit XI-14.** [

]. Accordingly, Petitioners used the import data for all cold-rolled products specific to that port district to estimate ocean freight and insurance charges as the offer covered a variety of the thicknesses and widths.

Petitioners calculated foreign brokerage and handling charges using the average cost of brokerage and handling expenses reported for exporting goods from the Netherlands in *Doing Business 2015: Netherlands* published by the World Bank. *See* **Exhibit XI-15.**

Petitioners did not make a deduction for inland freight charges from the plant to the port of lading as the Tata plant is located at a port. To the extent that Tata incurs any movement charges at the port (and it must incur some charges), Petitioners have understated the dumping margins.

Petitioners then deducted the movement charges from the starting prices to arrive at ex-factory prices in the Netherlands. Petitioners then compared these prices to the constructed values calculated in **Exhibit XI-3.**

B. Export Price Based On Average POI Customs Value For Cold-Rolled Steel

As described above, Petitioners calculated the average cost of production for non-specialty cold-rolled products, i.e., not painted, not coated, not tool steel, not electrical steel products. As an additional measure of export price, Petitioners calculated the weighted-average POI Customs Value (i.e., FOB Foreign Port Value) for cold-rolled steel products entered from the Netherlands during the POI that matched these criteria.

Petitioners deducted foreign brokerage and handling calculated using the same methodologies used in the preceding section to arrive an average ex-factory price in the Netherlands.

Exhibit XI-12 contains the calculation of Export Price and the Dumping Margins. Petitioners calculated the weighted-average POI Customs Value (i.e., FOB Foreign Port Value) for representative non-specialty cold-rolled coil products, i.e., not painted, not otherwise coated, not tool steel, not electrical steel products entered from the Netherlands during the POI. These data were obtained directly from the official U.S. import statistics and are contained in **Exhibit XI-16**. Petitioners disaggregated all imports of cold-rolled steel from the Netherlands into their respective Harmonized Tariff Schedule ("HTS") numbers for the period April 1, 2014 through March 30, 2015. Petitioners excluded all HTS data that correspond to products "further worked than cold-rolled" (*e.g.*, painted products), and products coated with plastics. These products, while covered by the scope of the petition, are specialized products with greatly varying costs. Including these in the calculation of Export Price compared to a cost model that reflects the average cost of producing non-specialized products would distort the dumping margins. The weighted-average FOB Foreign Port price using this methodology is US$810.11 per metric ton.

Petitioners then compared these prices to the constructed values calculated in **Exhibit XI-3.**

V. DUMPING MARGIN

A. Comparison of Price Quotation To The Constructed Value Of Cold-Rolled Steel Products Manufactured By Tata

Using the cost model for the specific products corresponding to a price quotation in the U.S. discussed above, compared to the ex-factory price derived from the price quotation, Petitioners calculated a dumping margin of 136.46 percent. *See* **Exhibit XI-12.**

B. Comparison Of Average Customs Value For U.S. Imports Of Dutch Cold-Rolled Steel To The Average Constructed Value For Cold-Rolled Steel Produced By Tata

Petitioners compared the weighted-average Customs Value for U.S. imports of Dutch-produced carbon and alloy, unpainted, uncoated, non-electrical, not tool steel cold-rolled steel during the POI, as adjusted to reflect an average ex-factory price, to the calculated average constructed value for cold-rolled steel products manufactured by Tata as described above. The constructed value calculation is contained in **Exhibit XI-3**. The calculation of the resulting 47.36 percent dumping margin is contained in **Exhibit XI-12**.

VI. MATERIAL INJURY AND THREAT OF MATERIAL INJURY TO THE DOMESTIC INDUSTRY

Petitioners allege that imports of cold-rolled steel from the Netherlands sold at less than fair value are a cause of material injury and threaten to cause material injury to the domestic industry. The factual information in support of this allegation is provided to the Department and the Commission in Volume I of this petition.

VII. CONCLUSION AND REQUEST FOR INVESTIGATION

As demonstrated above, Dutch producers and exporters are selling cold-rolled steel for less than fair value in the United States. Accordingly, Petitioners request that the Department initiate an antidumping duty investigation on cold-rolled steel from the Netherlands. Petitioners also ask that pursuant to section 505(a) of the Trade Preferences Extension Act of 2015 (PL 114-27), the Department should request Cost Of Production and Constructed Value information as part of its initial questionnaires to the respondents.

July 28, 2015

DOC Inv. Nos. A-570-029, C-570-030, A-351-843, C-351-844, A-533-865, C-533-866, A-588-873, A-580-881, C-580-882, A-421-812, **A-821-822**, C-821-823, A-412-824
USITC Inv. Nos. 701-TA-___-- __, and 731-TA-___ - ___
Total Pages: 626
Antidumping and Countervailing Duty Investigations

PUBLIC VERSION
Petitioners' Business Proprietary Information for which Proprietary Treatment has been requested deleted in the attached volumes of the Petitions at: Volume I, pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, and 45, the Exhibit List, and Exhibits I-3 – I-4, and I-9 – I-15; and Volume XII at Exhibits XII-2.A., XII-2.B., XII-2.D., XII-2.I., XII-3.A., XII-3.B., XII-3.D., XII-4.A., XII-4.F., XII-5, XII-6.A., and XII-6.B.

The Honorable Penny S. Pritzker
Secretary of Commerce
Attention: Enforcement and Compliance
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

Re: Petitions for the Imposition of **Antidumping** and Countervailing Duties: Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, **Russia**, and the United Kingdom

Dear Secretary Pritzker and Secretary Barton:

On behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics, Inc., and United States Steel Corporation (collectively "Petitioners"), we hereby submit to the U.S. Department of Commerce (the "Department") petitions for the imposition of antidumping and countervailing duties on certain cold-rolled steel flat products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom (the "Petitions") pursuant to sections 701, 702(b), 731, and 732(b) of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. §§ 1671, 1671a(b), 1673 and 1673a(b)).

Pursuant to the Department's regulations codified at 19 C.F.R. § 351.202(c), we hereby certify that the Petitions and required copies are being filed today with the International Trade Commission (the "Commission").

At the Department, for each of the Petitions, we are filing Volume I (Common Issues and Injury) matched with the corresponding volume that contains the country-specific information on sales at less-than-fair value or the provision of countervailable subsidies. Information pertaining to the allegations of sales at less-than-fair value for the People's Republic of China, Brazil, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom is contained in Volumes II, IV, VI, VIII, IX, XI, XII, and XIV, respectively. Information concerning the countervailable subsidies provided by the People's Republic of China, Brazil, India, the Republic of Korea, and Russia is contained in Volumes III, V, VII, X, and XIII, respectively.

At the Commission, pursuant to instructions from Secretary Barton, we are filing an original and eight copies of: the narrative portion of the business proprietary version of Volume I (Common Issues and Injury); the narrative portion of the business proprietary version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). We are also filing an original and four copies of: the narrative portion of the public version of Volume I (Common Issues and Injury); the narrative portion of the public version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). Finally, we are filing on CD-ROM complete sets of the business proprietary and public versions of the exhibits to all volumes of these Petitions in PDF format compatible with the Commission's EDIS system.

On behalf of Petitioners, we hereby request proprietary treatment for information designated as proprietary in these Petitions pursuant to the Department's regulations codified at 19 C.F.R. §§ 351.202(d) and 351.304 and the Commission's rules codified at 19 C.F.R. § 201.6(b). Business proprietary information is enclosed in single brackets ("[ ]").

The information in Volume I of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

(1) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): Exhibit I-13.

(2) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): Exhibit I-14.

(3) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section)* (19 C.F.R. § 351.105(c)(5)): pages 31-32; and Exhibits I-4, I-12, and I-14.

(4) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)): Exhibits I-9 and I-14.

(5) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): Exhibit I-14.

(6) *The position of a domestic producer or workers regarding a petition* (19 C.F.R. § 351.105(c)(10)): pages 3 and 35.

(7) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, and 45; and Exhibits I-3, I-10 – I-13, and I-15.

The information in the attached Volume XII of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

(8) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): Exhibits XII-4.A., XII-4.F., XII-5, and XII-6.B.

(9) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): Exhibits XII-2.A., XII-2.B., XII-2.D., and XII-2.I.

(10) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section)* (19 C.F.R. § 351.105(c)(5)): Exhibits XII-2.A., XII-2.B., and XII-2.I.

(11) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)): Exhibit XII-2.B.

(12) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): Exhibits XII-2.B. and XII-4.A.

(13) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): Exhibits XII-2.A., XII-2.B., XII-2.D., XII-2.I., XII-3.A., XII-3.B., XII-3.D., XII-4.A., XII-4.F., XII-5, XII-6.A., and XII-6.B.

The single-bracketed business proprietary information in the attached Volumes I and XII of these Petitions identified above is entitled to proprietary treatment in accordance with the Department's regulations codified at 19 C.F.R. § 351.304(a) and the Commission's rules codified at 19 C.F.R. § 201.6(b).[1] Information for which proprietary treatment is requested is not available to the public. Public disclosure of this information would result in serious and substantial harm to the competitive position of the sources of the information and would impair the ability of the Department and the Commission to obtain information necessary to fulfill their statutory functions. The requisite certifications that substantially identical information is not available to the public are set forth as attachments to this letter, in accordance with the Commission's rules codified at 19 C.F.R. § 201.6(b).

Pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(b), Petitioners agree in principle to permit disclosure of the single-bracketed business proprietary information contained in these Petitions under an appropriately drawn administrative protective order ("APO"). Petitioners, however, reserve the right to comment on all APO applications prior to disclosure.

In addition, pursuant to 19 C.F.R. § 351.304(b)(2), Petitioners submit that the information enclosed in double brackets ("[[ ]]") in Exhibit XII-3.B. of Volume IX is exempt from disclosure under an APO. The information in double brackets in Exhibit XII-3.B. would permit the identification of the foreign market researcher who obtained the home market prices used in the Petition. Specifically, this information includes the name of the declarant, the signature line, company information, and biographical details. The release of this information would lead to the disclosure of the foreign market researcher's identity. There is a clear and compelling need to withhold this information from disclosure. Most importantly, it is a matter of protecting the foreign market researcher's personal safety as well as economic security. If the identity of the foreign market researcher is released, it will result in substantial and irreparable harm to the foreign market researcher and there is no way to cure the breach. For these reasons, we submit that the Department should grant Petitioners' request for special protection of the double-bracketed information in Exhibit XII-3.B.

This public version is being filed simultaneously with the business proprietary version of these Petitions pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(c)(1) and the Commission's rules codified at 19 C.F.R. § 201.8(f). This public version contains a public summary of the single-bracketed business proprietary information in sufficient detail to permit a reasonable understanding of the contents of these Petitions.

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1 Volumes III, V, VII, X, and XIII of the Petitions contain no business proprietary information.

Should you have any questions regarding these Petitions, please contact the undersigned.

Respectfully submitted,

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PUBLIC VERSION

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PUBLIC VERSION

BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE
AND THE
U.S. INTERNATIONAL TRADE COMMISSION

CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS FROM BRAZIL, CHINA, INDIA, JAPAN, KOREA, NETHERLANDS, RUSSIA, AND THE UNITED KINGDOM

PETITION FOR THE IMPOSITION OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED

VOLUME XII
RUSSIA ANTIDUMPING

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Date: July 28, 2015
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Table of Contents

Table of Contents
(continued)

I. CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS FROM RUSSIA ARE BEING SOLD OR OFFERED FOR SALE IN THE UNITED STATES AT LESS THAN FAIR VALUE

A. Introduction

This volume presents information reasonably available to Petitioners demonstrating that certain cold-rolled steel flat products ("cold-rolled steel") exported from Russia are being sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended ("the Act"). See 19 U.S.C. § 1673. As discussed below, application of the standard antidumping methodology used by the Department of Commerce ("Department") demonstrates that producers and exporters in Russia have sold, or offered for sale, cold-rolled steel in the United States for less than fair value.

The general and injury information required by section 351.202 of the Department's regulations, 19 C.F.R. § 351.202, and section 207.11 of the regulations of the U.S. International Trade Commission ("ITC" or the "Commission"), 19 C.F.R. § 207.11, can be found in Volume I of this Petition. Based on information reasonably available to Petitioners and contained in this volume, the Department should initiate an investigation into sales at less than fair value of cold-rolled steel from Russia and should impose antidumping duties in an amount that is equal to the amount by which the normal value exceeds the constructed export price.

B. Russian Producers

To the best of Petitioners' knowledge, cold-rolled steel from Russia is manufactured and exported by OAO Severstal ("Severstal") and Novolipetsk Steel ("NLMK"). Pursuant to 19 C.F.R. § 351.202(b)(7)(i)(A), the name and address of all Severstal and NLMK are as follows:

OAO Severstal
Legal address:
30 Mira Street
Cherepovets
Vologda Region, 162608, Russia
Phone: 7-8202-530900
Fax: 7-8202-530915

Postal address:
2 Klara Tsetkin Street
Moscow, RU-127299, Russia

Novolipetsk Steel (NLMK)
2 Metallurgov Square
Lipetsk, Lipetsk Oblast, 398040, Russia
Phone: 7-495-915-1575
Fax: 7-474-243-2541

See also Petition Volume I, **Exhibit I-7** (foreign producer list). Additional information on Russian foreign producers is attached to this volume as **Exhibit XII-1.A** (Foreign Mill Profiles).

Although information about the proportion of total exports to the United States accounted for by each Russian producer is not reasonably available to Petitioners, based on experience in the marketplace, Petitioners believe that merchandise produced by the identified companies accounts for virtually all U.S. imports of cold-rolled steel from Russia during the period of investigation.

C. Export Price and Constructed Export Price

1. Russian Producers Analyzed

Petitioners have reason to believe or suspect that producers of certain cold-rolled steel in Russia are selling cold-rolled steel in the United States at less than fair value. Petitioners believe that sales of the subject merchandise may occur either before or after importation to the United States. Petitioners obtained from a confidential source a U.S. price for a sale/offer for sale within the period of investigation for cold-rolled steel from Russia. See **Exhibit XII -2**.

2. Net U.S. Prices

To determine the ex-factory value of the U.S. sale at the foreign mill, Petitioners adjusted export prices for the following, as appropriate.

a. Net U.S. Price

For the detailed calculations of the net, ex-factory U.S. price, see calculations at **Exhibit XII-2.A**.

b. Documentation

For the documentation of the gross U.S. price, see calculations at **Exhibit XII-2.B**.

c. Foreign Inland Movement Charges and Ocean Freight

Petitioners adjusted for foreign inland freight, foreign brokerage and handling charges, and ocean freight from the port of export to the closest U.S. port of entry based on the actual experience of Severstal. See **Exhibit XII-2.C**.

d. U.S. Inland Freight

Petitioners adjusted for U.S. inland freight from the U.S. port to the U.S. customer's location during the POI. See **Exhibit XII-2.D**.

e. U.S. Brokerage and Handling

Petitioners adjusted for U.S. brokerage and handling based on the average brokerage house charges for exporting from Russia published in Doing Business 2015: United States, by the ***World Bank***. See **Exhibit XII-2.F**.

f. U.S. Inland Insurance

Petitioners adjusted for U.S. inland insurance based on representative rates from grw-products.com. See **Exhibit XII-2.E**.

g. <u>U.S. Customs Fees</u>

Petitioners adjusted for U.S. customs fees of 0.125 percent (harbor maintenance) and 0.3464 percent (merchandise processing) pursuant to 19 C.F.R. §§ 24.23(b)(1)(A) and 24.24(a). These are applied *ad valorem* to the U.S. dutiable value of the merchandise (<u>i.e.</u>, the FOB foreign port value of the goods). Therefore, Petitioners calculated port fees by subtracting all freight and insurance charges calculated above from the transaction price and applied the total 0.4714 percent customs fees using following formula: customs entry fees = (0.004714) * (Delivered Price – U.S. and International Freight & Insurance)/1.004714. <u>See</u> **Exhibit XII-2.A**.

h. <u>Importer's Markup (Affiliated CEP Agency or Unaffiliated Trading Company</u>

Petitioners adjusted for U.S. selling expenses for sales made through an affiliated importer pursuant to 19 U.S.C. § 1677a(d) and 19 C.F.R. § 351.402. Because actual selling expense data of affiliated importers are not available, Petitioners used estimates based upon the publicly reported expenses in the most recently available annual report of a distributor of steel. <u>See</u> **Exhibit XII-2.H**.

i. <u>Payment Terms: Imputed Credit and/or Payment Discounts</u>

Petitioners adjusted for extended payment terms, if applicable, with imputed credit determined based on a representative interest rate, and early payment discounts, if applicable. <u>See</u> **Exhibit XII-2.I**.

D. <u>Calculation of Normal Value</u>

Petitioners considered home market prices, the cost of production, and constructed value in determining normal value.

1. Home Market Prices

Petitioners obtained from a confidential source Russian home market prices based on sales or offers for sale within the proposed period of investigation for cold-rolled steel. See **Exhibit XII-3.B**. Petitioners calculated a net home market price, adjusting for extended payment terms, if applicable, with imputed credit determined based on a representative interest rate, and early payment discounts, if applicable. See **Exhibit XII-3.A**.

2. Cost of Production and Constructed Value

Petitioners do not have access to the actual product-specific production costs for Russian producers of subject merchandise, because those costs are not publicly available. To calculate the cost of production ("COP"), therefore, Petitioners relied on the cost of production of a petitioning U.S. producer for the subject merchandise as the best information reasonably available. See **Exhibit XII-4.A**. Petitioners adjusted those costs for known differences in cost between the Russian and the U.S. industries. See **Exhibit XII.4.F**. Specifically, Petitioners calculated the cost of manufacturing ("COM") based on the sum of direct materials, direct labor, energy, and fixed and variable overhead costs. To the COM, Petitioners added amounts for selling, general and administrative ("SG&A") expenses to arrive at the COP. The costs of these inputs in Russia were determined as follows:

a. Raw Material Costs

Raw material costs were based on values from Global Trade Atlas ("GTA") for the most recent 12-month period available. See **Exhibit XII-4.B**.

b. Labor Costs

Labor costs were determined by applying public information on labor costs in Russia to domestic producers' labor consumption. See **Exhibit XII-4.C**.

c. Energy Costs

Energy costs were determined by applying public information on electricity and natural gas costs in Russia to domestic producers' energy consumption quantities. See **Exhibit XII-4.D**.

d. Financial Ratios

Overhead, SG&A, and profit (for CV only) were derived from the most recently available financial statements of either: (a) an exporter of subject merchandise; or (b) a manufacturer of comparable products in Russia. See **Exhibit XII-4.E**.

Where it was necessary to rely on data from a period preceding the period of investigation, in accordance with the Department's practice, Petitioners adjusted such values to reflect current prices using the consumer price index ("CPI") data for Russia published by the IMF. See **Exhibit XII-2-G**.

3. Cost Test and Below Cost Sales Allegation

Petitioners calculated the net price for comparison to COP using the net unpacked home market price. Based on a comparison of home market ex-works price, net of packing, in U.S. dollars per short ton to the cost of production in U.S. dollars per short ton, the sales of the foreign like product occurred at prices that were significantly below the COP. See **Exhibit XII-5**.

a. Reason to Believe or Suspect Home Market Prices Were Below Cost

Because there is reason to believe or suspect that the home market sales were priced below the cost of production, Petitioners allege that there were sales below cost and, should a less-than-fair-value investigation be initiated, hereby request, pursuant to 19 U.S.C. § 1677b(b)(1), that the Department initiate a countrywide investigation as to whether any Russian respondent sold subject merchandise at prices below COP.

Further, based on the recently enacted amendments to the Act, the Department should automatically initiate a cost investigation following its initiation of a less-than-fair-value investigation. See 19 U.S.C. § 1677b(b)(2)(A)(ii) (providing that "{i}n an investigation initiated under section 732 . . ., the {Department} shall request information necessary to calculate the constructed value and cost of production under {19 U.S.C. § 1677b(e) and (f)} to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the cost of production of the product."); see also Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, § 505(a), 129 Stat. 362, 385 (2015).

b. Appropriate Basis for Normal Value

Because record evidence demonstrates that there is reason to believe that the home market sales were made at prices below the cost of production, Petitioners have calculated normal value based on constructed value as well as on net home market prices. The calculation of constructed value was based on the calculation of COP, explained above, plus an appropriate amount for profit. See **Exhibit XII-4.F**. As described below, both constructed value and the net home market prices provide evidence to believe or suspect that sales of subject merchandise from Russia were sold at less than fair value.

E. Antidumping Duty Margin Calculation

Petitioners subtracted the export price or constructed export price from the most contemporaneous net home market price as normal value, and divided the difference by the constructed export price to determine the dumping margin for the U.S. sale. These comparisons result in a price-to-price dumping margin of **69.12 percent.** See **Exhibit XII-6.A**.

Petitioners subtracted the export price or constructed export price from constructed value, and divided the difference by the constructed export price to determine the dumping margin for the U.S. sale. These comparisons result in a price-to-CV dumping margin of **320.45 percent**. See **Exhibit XII-6.B.**

II. CONCLUSION AND REQUEST FOR INVESTIGATION

As demonstrated above, cold-rolled steel from Russia is being sold at less than fair value. Accordingly, Petitioners request that the Department initiate an antidumping investigation of cold-rolled steel from Russia.

VOLUME XII: RUSSIA COLD-ROLLED STEEL EXHIBIT LIST

Exhibit No.	Description
XII-1	**Information on Foreign Exporters**
XII-1.A	Foreign Mill Profile
XII-1.B	Foreign Mill Product Catalogue
XII-2	**Export Price and Constructed Export Price and Adjustments**
XII-2.A	Net U.S. Price
XII-2.B	Price Documentation
XII-2.C	U.S. Movement Charges – Factory to U.S. Port
XII-2.D	U.S. Inland Freight
XII-2.E	U.S. Inland Insurance
XII-2.F	U.S. Brokerage and Handling
XII-2.G	Inflation Indices
XII-2.H	Importer's Mark-up/Affiliate Selling Expense
XII-2.I	Interest Rate
XII-3	**Home Market Prices and Adjustments**
XII-3.A	Home-Market Net Price
XII-3.B	Price Documentation
XII.3.C	Exchange Rates
XII-3.D	Interest Rate
XII-4	**Cost of Production and Constructed Value**
XII-4.A	U.S. Cost Experience
XII-4.B	Raw Material Costs Based on Global Trade Atlas
XII-4.C	Labor Costs
XII-4.D	Energy Costs
XII-4.E	Overhead, SG&A and Profit Documentation
XII-4.F	Foreign Mill Costs
XII-5	**Home-Market Sale Cost Test**
XII-6	**Margins of Dumping**
XII-6.A	Price-to-Price Margin
XII-6.B	Price-to-CV Margin

July 28, 2015

DOC Inv. Nos. A-570-029, C-570-030, A-351-843, C-351-844, A-533-865, C-533-866, A-588-873, A-580-881, C-580-882, A-421-812, A-821-822, **C-821-823**, A-412-824
USITC Inv. Nos. 701-TA-___ -- __, and 731-TA-___ - ___
Total Pages: 1,198
Antidumping and Countervailing Duty Investigations

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Petitioners' Business Proprietary Information for which Proprietary Treatment has been requested deleted in the attached volumes of the Petitions at: Volume I, pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, and 45, the Exhibit List, and Exhibits I-3 – I-4, and I-9 – I-15

The Honorable Penny S. Pritzker
Secretary of Commerce
Attention: Enforcement and Compliance
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

Re: Petitions for the Imposition of Antidumping and **Countervailing Duties**: Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, **Russia**, and the United Kingdom

Dear Secretary Pritzker and Secretary Barton:

On behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics, Inc., and United States Steel Corporation (collectively "Petitioners"), we hereby submit to the U.S. Department of Commerce (the "Department") petitions for the imposition of antidumping and countervailing duties on certain cold-rolled steel flat products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom (the "Petitions") pursuant to sections 701, 702(b), 731, and 732(b) of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. §§ 1671, 1671a(b), 1673 and 1673a(b)). Pursuant to the Department's regulations codified at 19 C.F.R. § 351.202(c), we hereby certify

PUBLIC VERSION

that the Petitions and required copies are being filed today with the U.S. International Trade Commission (the "Commission").

At the Department, for each of the Petitions, we are filing Volume I (Common Issues and Injury) matched with the corresponding volume that contains the country-specific information on sales at less-than-fair value or the provision of countervailable subsidies. Information pertaining to the allegations of sales at less-than-fair value for the People's Republic of China, Brazil, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom is contained in Volumes II, IV, VI, VIII, IX, XI, XII, and XIV, respectively. Information concerning the countervailable subsidies provided by the People's Republic of China, Brazil, India, the Republic of Korea, and Russia is contained in Volumes III, V, VII, X, and XIII, respectively.

At the Commission, pursuant to instructions from Secretary Barton, we are filing an original and eight copies of: the narrative portion of the business proprietary version of Volume I (Common Issues and Injury); the narrative portion of the business proprietary version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). We are also filing an original and four copies of: the narrative portion of the public version of Volume I (Common Issues and Injury); the narrative portion of the public version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). Finally, we are filing on CD-ROM complete sets of the business proprietary and public versions of the exhibits to all volumes of these Petitions in PDF format compatible with the Commission's EDIS system.

On behalf of Petitioners, we hereby request proprietary treatment for information designated as proprietary in these Petitions pursuant to the Department's regulations codified at 19 C.F.R. §§ 351.202(d) and 351.304 and the Commission's rules codified at 19 C.F.R. § 201.6(b). Business proprietary information is enclosed in single brackets ("[ ]").

The information in Volume I of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

(1) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): Exhibit I-13.

(2) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): Exhibit I-14.

(3) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section)* (19 C.F.R. § 351.105(c)(5)): pages 31-32; and Exhibits I-4, I-12, and I-14.

(4) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the*

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destination or designation would reveal the name) (19 C.F.R. § 351.105(c)(6)): Exhibits I-9 and I-14.

(5) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): Exhibit I-14.

(6) *The position of a domestic producer or workers regarding a petition* (19 C.F.R. § 351.105(c)(10)): pages 3 and 35.

(7) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, and 45; and Exhibits I-3, I-10 – I-13, and I-15.

The information in the attached Volume XIII is entirely public and, therefore, Petitioners are not requesting that any information in Volume XIII be accorded proprietary treatment.

The single-bracketed business proprietary information in the attached Volume I of these Petitions identified above is entitled to proprietary treatment in accordance with the Department's regulations codified at 19 C.F.R. § 351.304(a) and the Commission's rules codified at 19 C.F.R. § 201.6(b).[1] Information for which proprietary treatment is requested is not available to the public. Public disclosure of this information would result in serious and substantial harm to the competitive position of the sources of the information and would impair the ability of the Department and the Commission to obtain information necessary to fulfill their statutory functions. The requisite certifications that substantially identical information is not available to the public are set forth as attachments to this letter, in accordance with the Commission's rules codified at 19 C.F.R. § 201.6(b).

Pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(b), Petitioners agree in principle to permit disclosure of the single-bracketed business proprietary information contained in these Petitions under an appropriately drawn administrative protective order ("APO"). Petitioners, however, reserve the right to comment on all APO applications prior to disclosure.

This public version is being filed simultaneously with the business proprietary version of these Petitions pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(c)(1) and the Commission's rules codified at 19 C.F.R. § 201.8(f). This public version contains a public summary of the single-bracketed business proprietary information in sufficient detail to permit a reasonable understanding of the contents of these Petitions.

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1 Volumes III, V, VII, X, and XIII of the Petitions contain no business proprietary information.

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Should you have any questions regarding these Petitions, please contact the undersigned.

Respectfully submitted,

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PUBLIC DOCUMENT

DOC Investigation No. C-821-823
USITC Inv. Nos. 701-TA-xxx and 731-TA-xxx
(Prelim)
Total Pages: 961
PUBLIC DOCUMENT

BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE
AND THE
U.S. INTERNATIONAL TRADE COMMISSION

CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS FROM BRAZIL, CHINA, INDIA, JAPAN, KOREA, NETHERLANDS, RUSSIA, AND THE UNITED KINGDOM

PETITION FOR THE IMPOSITION OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED

VOLUME XIII
RUSSIA COUNTERVAILING DUTY

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Date: July 28, 2015

Table of Contents

Page

Table of Contents
(continued)

Table of Contents
(continued)

Table of Contents
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I. COLD-ROLLED CARBON STEEL FROM THE RUSSIAN FEDERATION IS BEING UNLAWFULLY SUBSIDIZED BY THE RUSSIAN GOVERNMENT

A. Introduction

This volume presents information reasonably available to Petitioners[1] demonstrating that the production of cold-rolled carbon steel ("cold-rolled steel")[2] from the Russian Federation ("Russia") is benefiting from countervailable subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended ("the Act"). 19 U.S.C. § 1677(5). The general information required by section 351.202 of the regulations of the U.S. Department of Commerce (the "Department"), 19 C.F.R. § 351.202, and section 207.11 of the regulations of the U.S. International Trade Commission ("ITC" or the "Commission"), 19 C.F.R. § 207.11, can be found in Volume I of this Petition.

Pursuant to 19 U.S.C. § 1671(a)(l) and (2), the Department shall impose a countervailing duty on merchandise imported from a "Subsidies Agreement" country,[3] where the imported merchandise: (1) is produced or exported by manufacturers that benefit from countervailable subsidies, and (2) materially injures or threatens a domestic industry. As detailed below, Russian cold-rolled steel producers likely have benefitted from numerous countervailable subsidies provided by the Russian government. Further, as described in Volume I, imports of the subject merchandise from Russia have caused material injury to the U.S. cold-rolled steel industry. The

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[1] Petitioners are AK Steel Corporation, ArcelorMittal USA, Nucor Corporation, Steel Dynamics, Inc., and United States Steel Corporation.

[2] A description of the subject merchandise is provided in Volume I, Section I.E. of the petition.

[3] The Russian Federation, as a member of the World Trade Organization ("WTO"), is a country under the "Subsidies Agreement" as it relates to 19 U.S.C. § 1671(b).

Department, therefore, should initiate a countervailing duty ("CVD") investigation on imports of cold-rolled steel from Russia.

B. Information Relating to Russian Producers of Cold-Rolled Steel

Petitioners have identified Russian producers of the subject merchandise and have provided the names and addresses of these companies in **Exhibit I-7** in Petition Volume I. Petitioners believe the vast majority of Russian exports of cold-rolled steel to the United States in 2014 – the proposed period of investigation – were manufactured by OAO Severstal ("Severstal") and Novolipetsk Steel ("NLMK"). Petitioners further believe that these producers have benefited from one or more countervailable subsidies provided by the Government of the Russian Federation ("GOR"). Indeed, as detailed below, publically available information suggests Russian cold-rolled steel producers have availed themselves of these countervailable subsidy programs, thereby, requiring remedial action by the Department.

C. Cold-Rolled Steel Production in Russia Benefits from Subsidies Conferred Pursuant to the GOR's Industrial Policies

The GOR's historical intervention and promotion of the Russian steel industry began decades ago, while still under Communist rule, leading to the creation of both Russian cold-rolled steel producers.

1. Severstal

Severstal began operations in the mid-1950s as a state-owned entity, and was privatized in 1993.[4] Severstal currently is part of PAO Severstal, a vertically integrated steel and steel mining company with its main steel mill located near Cherepovets, in Vologda Oblast, in

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[4] See Company History, Severstal website (July 15, 2015), https://www.severstal.com/eng/about/company_history/index.phtml (appended at Exhibit 1).

northwest Russia.[5] The Severstal Group is comprised of two main operating units, Severstal Russian Steel and Severstal Resources.[6] Severstal Resources supplies almost all of the iron ore and coking coal consumed in Severstal's steel operations.[7] In recent years, Severstal has undertaken a variety of investments to replace and refurbish major equipment, develop higher-quality and value-added products, and improve environmental protection.[8] Indeed, upgrades at the company's cold-rolling operations are aimed at increasing annual cold-rolled steel production to approximately three million tons.[9] As described below, countervailable subsidies from the GOR assisted Severstal in these investments.

As stated in Severstal's 2014 Annual Report, the GOR's support continues in 2015, as the Russian government seeks to strengthen the international competitiveness of Russian industries through the provision of 1.3 trillion rubles "to support economic growth" and 1.0 trillion rubles "for funding banks."[10] In fact, Severstal's Chief Executive Officer noted in October 2014 at the World Steel Association's conference in Moscow that the strength of the Russian steel industry

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5 See Severstal 2014 Annual Report at 5, available at http://www.severstal.com/eng/ir/results_and_reports/annual_reports/index.phtml; (appended at Exhibit 2).

6 See id.

7 See Severstal 2013 Annual Report at 6, available at http://www.severstal.com/eng/ir/results_and_reports/annual_reports/index.phtml (appended at Exhibit 3).

8 See id. at 54.

9 See id. at 56.

10 See Severstal 2014 Annual Report at 16 (appended at Exhibit 2).

"is a credit to the high importance of steel and also to the significance of the steel industry within the national economy."[11]

2. NLMK

The NLMK Group is also a vertically integrated steel producer, and Russia's largest steel maker, with operations in Russia, Europe, and the United States.[12] Novolipetsk is NLMK's main steel production site in Lipetsk, Russia.[13] The company began operations in 1934, as a state-owned entity, and was privatized in 1993.[14] NLMK has made "significant capital investments in major projects over the past decade," including environmental projects,[15] which have required substantial funds and likely included significant countervailable subsidies from the GOR.

* * *

The evidence contained in this petition provides a clear basis for initiating an investigation to determine whether the subject merchandise is benefiting from numerous countervailable subsidies granted to producers of cold-rolled steel in Russia.

D. Publicly Available Information Regarding the Cold-Rolled Steel Industry in Russia and Russian Subsidy Programs

1. Difficulty in Obtaining Information

Petitioners have undertaken an extensive search of all reasonably available information that documents countervailable subsidies provided by the GOR and identifies the nature and

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[11] Id. at 21.

[12] See Overview, NLMK Group website (July 15, 2015), http://nlmk.com/our-business/overview (appended at Exhibit 4).

[13] See A-Z list of assets, NLMK Group website (July 15, 2015), http://nlmk.com/our-business/operations/a-z-assets (appended at Exhibit 5).

[14] See NLMK 2013 Annual Report at 111 (appended at Exhibit 6).

[15] See id. at 3.

structure of the Russian cold-rolled steel industry. While the subsidy allegations presented in this Petition satisfy the countervailing duty statute and the Department's regulations, obtaining evidence of the amount of assistance received by subject producers has been challenging due to the GOR's lack of transparency.

In fact, the Office of the United States Trade Representative ("USTR") has acknowledged a number of difficulties and limitations in relation to Russia stating:

> {r}eflecting on Russia's first year as a WTO Member, USTR has grown increasingly concerned about Russia's implementation of its commitments, as well as its dedication to the goals of the WTO with respect to trade liberalization, rule of law, and transparency.[16]

Indeed, due to Russia's failure to provide full and complete notifications on its subsidy programs to the WTO, in accordance with Article 25 of the Agreement on Subsidies and Countervailing Measures, USTR submitted "multiple rounds of questions, . . . including numerous subsidies identified by the United States that Russia did not notify" to the WTO.[17] While this process did increase understanding on certain of the subsidy programs detailed herein, the lack of transparency in the GOR's responses has precluded Petitioners' ability to obtain specific information relating to the operation of many of the programs addressed below.

Further, although there are published annual reports for the Russian cold-rolled steel producers, the information in these reports is not particularly detailed, or is provided on a broad, consolidated basis that includes operations outside of Russia. In light of these limitations,

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[16] United States Trade Representative, Report on WTO Enforcement Actions: Russia, at 3 (June 2014) (emphasis added), available at https://ustr.gov/sites/default/files/2014%20WTO%20Enforcement%20report%20-%20Russia.pdf (appended at Exhibit 7).

[17] See id. at 7.

combined with the GOR's lack of transparency, Petitioners are unable to quantify countervailable benefits or calculate program-specific countervailing duty margins. Nevertheless, whenever possible, Petitioners have provided factual information that gives a reasonable indication of the value of the subsidy to Russian producers of cold-rolled steel.

2. Petitioners Examined All "Reasonably Available" Information

In accordance with statutory and regulatory provisions setting forth requirements for countervailing duty petitions, this Petition presents all information "reasonably available" to Petitioners concerning possible countervailable subsidies available to and bestowed on producers of the subject merchandise in Russia. See 19 U.S.C. § 1671a(b)(1) and 19 C.F.R. § 351.202 (setting forth the "reasonably available" standard). The Department has explained that the "reasonably available" standard is satisfied when a petitioner has consulted:

> all available sources including libraries, embassies, and Department of Commerce (DOC) Central Records Unit (Room B-099). In order to demonstrate that all available sources were sought, Petitioner should describe in detail its methodology in seeking the required information.[18]

Notably, a petitioner does not have to prove at the outset of a proceeding that a subsidy allegation will be confirmed during the course of the investigation, nor does the petition have to establish that a potentially countervailable subsidy actually has been used for a subsidy allegation to be included in an investigation.

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[18] International Trade Administration, Department of Commerce, Form ITA-336P, Format for Requesting Petition Relief Under U.S. Countervailing Duty Law; see also Format for Petition Requesting Relief Under U.S. Countervailing Duty Law, 62 Fed. Reg. 8,220 (Dep't Commerce Feb. 24, 1997).

This Petition has been prepared in accordance with these guidelines. In developing the subsidy allegations set forth below, Petitioners examined all information reasonably available from public sources concerning possible subsidies to the production of cold-rolled steel in Russia. As noted above, however, public information on Russian subsidy program is limited due to the GOR's lack of transparency. Further, the Department has not previously conducted a countervailing duty investigation on merchandise from Russia. Given these circumstances, typical source information – such as past prior countervailing duty determinations by the Department and previous countervailing duty petitions concerning merchandise produced in Russia – are not available to Petitioners.

Moreover, neither the Canadian nor European Union authorities have completed any investigations of countervailable subsidies in Russia. On June 10, 2015, the Canada Border Services Agency initiated a subsidy investigation on certain hot-rolled carbon steel plate and high-strength low-alloy steel plate from the Russian Federation.[19] While Petitioners have reviewed materials from this investigation, given the recent nature of the proceeding, there is limited public information available at this time, and there has been no official finding.[20]

Notwithstanding, Petitioners have conducted extensive research in preparing this petition. Information analyzed in the course of preparing this Petition includes:

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[19] See SIMA Notice of Initiations of Investigations – Certain Steel Plate, Canada Border Services Agency website (July 15, 2015), http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/ad1406/ad1406-ni-eng.html (appended at Exhibit 8).

[20] See "CBSA looks at Russian and Indian hot-rolled carbon steel plates," Daily Commercial News (July 15, 2015), available at: http://dailycommercialnews.com/Government/News/2015/6/CBSA-looks-at-Russian-and-Indian-hot-rolled-carbon-steel-plates-1008437W/ (appended at Exhibit 9) (noting that CBSA will make its preliminary decision by September 8, 2015).

(1) articles and news reports on the producers, industries, and country in question available through the World Wide Web and on-line data services;

(2) where available, documents from international organizations and government agencies, including the World Trade Organization and the Office of the United States Trade Representative, concerning producers of the subject merchandise, industries in Russia, and the alleged subsidy programs; and

(3) publicly-available financial information for the producers, industry, and country at issue in this Petition.

The names, addresses, and other contact information for the Russian producers of the subject merchandise appear in **Exhibit I-7** of the Petition Volume I. Petitioners believe that these companies have benefited from one or more of the countervailable subsidies alleged below. As previously stated, however, notwithstanding the extensive amount of material reviewed in preparing this Petition, information sufficient to calculate an ad valorem subsidy margin is not reasonably available to Petitioners.

3. Period of Investigation and Allocation Period for Non-Recurring Subsidies

Based on agency practice, the period of investigation ("POI") in this case should be January 1, 2014 through December 31, 2014. Petitioners' allegations relate to benefits received during that year, as well as to non-recurring benefits received during a broader time period prior to January 1, 2014. Consistent with the Department's practice of allocating non-recurring subsidies over time, these earlier subsidies also benefited the subject merchandise during the POI.

For non-recurring subsidies, the allegations in this Petition presume a 15-year allocation period in accordance with the guidelines of the Internal Revenue Service ("IRS") for depreciating business or income-producing property. Specifically, the IRS assigns an average useful life ("AUL") of 15 years to productive assets employed in the "manufacture of primary steel mill products," a classification that would include the cold-rolled steel industry.[21] The Department, therefore, should include in its investigation any countervailable subsidies potentially provided to Russian cold-rolled steel producers during the period January 1, 2000 through December 31, 2014.

II. SUBSIDY ALLEGATIONS

Petitioners allege that the following subsidies – provided by the Russian government – confer countervailable benefits to the producers of cold-rolled steel in Russia within the meaning of section 771(5) of the Act (19 U.S.C. § 1677(5)) and request that the Department initiate an investigation of these subsidies to determine whether the imposition of countervailing duties is warranted.

In addition, Petitioners reserve the right to supplement these subsidy allegations or to make new allegations, as information becomes available during the course of the investigation, consistent with the Department's regulations. See 19 C.F.R. § 351.301(c)(2)(iv)(A) and (C) (2014) (allowing new subsidy allegations to be submitted no later than 40 days before the preliminary determination and upstream subsidy allegations no later than 60 days after the

[21] See U.S. Internal Revenue Service, How to Depreciate Property, (Pub. 946 Cat. No. 13081F) (2013) at Table B-2: Table of Class Lives and Recovery Periods (appended at Exhibit 10) (describing the "Class Life" for the "Manufacture of Primary Steel Mill Products").

preliminary determination); and 19 C.F.R. § 351.311 (requiring Commerce to investigate subsidies discovered during an investigation).

A. Grant Programs

As detailed below, the GOR supports the Russian cold-rolled steel industry, along with other select industries, through a variety of grant programs. While certain subsidies are targeted at lowering interest costs, all programs provide direct funding from the GOR to subject producers, and therefore, should be investigated by the Department.

1. Grants for "Technical Retooling" and Modernization

In accordance with Resolution No. 205 of March 10, 2009, the GOR provides interest rate subsidies (grants) to offset loan costs associated with "technical retooling" and modernization in select industries, including the metallurgical sector.[22] With the dual purposes of improving productive efficiency and leveling the playing field for Russian producers on credit costs relative to their international competitors, these grants are extended as "partial compensation of the interest rate on loans issued by Russian credit agencies for a period of up to 5 years."[23] The underlying loan could be used for the purchase of either domestic or foreign equipment.[24] Further, the provided grant would equal two-thirds of the company's annual

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[22] See World Trade Organization, New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures by the Russian Federation, G/SCM/N/253/RUS, at 3 (May 16, 2013) (hereinafter "2013 WTO Notification") (appended at Exhibit 11); see also World Trade Organization, Revision to the New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures by the Russian Federation, G/SCM/N/253/RUS/Rev.1, at 14 (May 1, 2014) (hereinafter "2014 WTO Notification") (appended at Exhibit 12).

[23] See 2013 WTO Notification at 3 (appended at Exhibit 11).

[24] See id.

interest-rate expense, subject to an interest-rate cap valued at either two-thirds of the Central Bank of the Russian Federation's refinancing rate (for domestic loans), or 9 percent (for foreign-currency loans).[25]

The GOR allocated 350 million rubles for this program, which is administered by the Ministry of Industry and Trade of the Russian Federation ("MIT").[26] Initially, Russian authorities reported these interest rate grants were to be provided between 2009 and 2014, for loans undertaken between 2008 and 2011.[27] Subsequently, however, the GOR notified the WTO that the period in which these interest rate subsidies would be provided would be extended until 2016.[28] Regardless of the time frame, benefits clearly were paid under this program during 2014, the proposed period of investigation.

Finally, although characterized by the GOR in its WTO notification as assistance to "machinery manufacturers," companies in "farm machine industry, timber processing complex, engineering in gas-and-oil complex, machine-tool industry and *metallurgy industry*" are eligible to receive benefits.[29] Thus, Russian cold-rolled steel producers are eligible to receive grants under this program. In fact, Severstal Group's annual report details the relevant accounting treatment for "government grants," noting that grants typically are recognized when there is a reasonable assurance they will be received and that grants associated with assets are represented

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[25] See id.

[26] See id.

[27] See id.

[28] See 2014 WTO Notification at 14-15 (appended at Exhibit 12).

[29] See id. (emphasis added).

through a reduction in the reported cost of the asset.[30] While specific details on such grants are not provided, the company clearly has benefitted from Russian government grants.

Accordingly, the Department should initiate an investigation on whether subject producers received interest rate grants for "technical retooling" and modernization in 2014.

a. Financial Contribution

Interest rate grants constitute a financial contribution under Section 771(5)(D)(i) of the Act, as the GOR provides a direct transfer of funds to subject producers. See 19 U.S.C. § 1677(5)(D)(i).

b. Benefit

Grants confer a benefit to the recipient equal to the provided amount. See 19 C.F.R. §351.504(a).

c. Specificity

These interest rate grants are de jure specific in accordance with 19 U.S.C. § 1677(5A)(D)(i), because the program is expressly limited to a select group of industries.

2. Grants for Export Credit Interest for "Highly Processed" Industrial Goods

Grants for Export Credit Interest for "Highly Processed" Industrial Goods were authorized under Resolution of the Government of the Russian Federation No. 357 of June 6, 2005, and are administered by the MIT.[31] Under this program, grants are available to offset interest expenses associated with the export of industrial goods "with a high degree of

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30 See 2014 Financial Statement of PAO Severstal and subsidiaries at 28 (appended at Exhibit 2).

31 See 2014 WTO Notification at 26-27 (appended at Exhibit 12).

processing."[32] The GOR has clarified that the "high-degree of processing" necessitates at least four stages of processing from a raw, or semi-finished material, and the eligible products were established by government order.[33]

To qualify for funding, enterprises must submit an application to the MIT, that is then reviewed and approved based on the decision of the MIT and the Ministry of Finance of the Russian Federation.[34] Subsequent to approval, grants are provided up to the maximum level; either two-thirds of the Central Bank's refinancing rate for loans issued in Russian rubles, or two-thirds of the interest rate on the foreign-currency loan.[35]

While the GOR claims this program ended on November 5, 2013,[36] there is no indication that benefits would cease for export credits previously authorized under the program. Based on these facts, the Department should initiate an investigation to determine whether the subject producers received these grants during the POI.

a. Financial Contribution

Grants for Export Credit Interest constitute a financial contribution under Section 771(5)(D)(i) of the Act, as the GOR provides a direct transfer of funds to subject producers. See 19 U.S.C. § 1677(5)(D)(i).

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32 See id.

33 See World Trade Organization, Replies to Questions Posed by the United States Regarding the New and Full Notification of the Russian Federation, G/SCM/Q2/RUS/7, at 3 (April 25, 2014) (hereinafter "GOR Replies to U.S. Questions G/SCM/Q2/RUS/7") (appended at Exhibit 13).

34 See id. at 3.

35 See id.

36 See 2014 WTO Notification at 26-27 (appended at Exhibit 12).

b. Benefit

These grants confer a benefit to the recipient equal to the provided amount. See 19 C.F.R. §351.504(a).

c. Specificity

This program is specific in accordance with 19 U.S.C. § 1677(5A)(A) and (B) as the grants are contingent upon export. In the alternative, only enterprises involved in the production of "highly processed" goods are eligible for such funding, making the program specific under 19 U.S.C. § 1677(5A)(D)(i).

3. Capital Contributions to Charter Companies

The GOR also is authorized by Federal Law No. 371-FL of November 30, 2011 to provide ad hoc support to select companies under the "Capital Contributions to Charter Companies" program.[37] These "non-repayable" grants are provided by the Federal budget to "certain companies for the development of their activities" at the GOR's discretion.[38] The GOR has allocated at least 313.5 billion rubles for these grants.[39] Although such assistance to steel producers was not notified to the WTO, given the central importance of the steel industry to Russia's economic development, the subject companies may have benefitted under this program.

a. Financial Contribution

Capital Contributions constitute a financial contribution under Section 771(5)(D)(i) of the Act, as the GOR provides a direct transfer of funds to subject producers. See 19 U.S.C. § 1677(5)(D)(i).

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[37] See id. at 27-28.

[38] See id.

[39] See id. at 28.

b. **Benefit**

The benefit conferred by these contributions equals to the amount of funding provided to the recipient by the GOR. See 19 C.F.R. §351.504(a).

c. **Specificity**

By the GOR's own admission, this program is specific in accordance with 19 U.S.C. § 1677(5A)(D)(i), as only select enterprises are designated as beneficiaries of these funds.[40]

4. **State Program to Develop Industry and Increase Competitiveness**

The State Program for "Development of Industry and Increasing its Competitiveness for the Period until 2020" was reportedly launched in January 2013.[41] According to the United States government's submission to the WTO, under this program the GOR provides, directly or indirectly, "grants, capital investments, equity infusions, goods and services other than general infrastructure, R&D support and R&D contracts to specific sectors and enterprises."[42] Limited information is available publically on this program, however, due to the GOR's failure to provide a complete and thorough response to the United States government's request for information.[43] Based on this circumstance, the Department should initiate an investigation into whether the subject producers received benefits under this program during the POI.

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40 See id. at 27.

41 See GOR Replies to U.S. Questions G/SCM/Q2/RUS/7 at 2 (appended at Exhibit 13).

42 See Questions Posed by United States Regarding the New and Full Notification of the Russian Federation, G/SCM/Q2/RUS/2, at 1 (July 29, 2013) (hereinafter "U.S. Questions G/SCM/Q2/RUS/2") (appended at Exhibit 14).

43 See GOR Replies to U.S. Questions G/SCM/Q2/RUS/7 at 2 (appended at Exhibit 13).

a. **Financial Contribution**

The forms of assistance provided under this program constitute a financial contribution by the government in accordance with 19 U.S.C. § 1677(5)(D).

b. **Benefit**

These incentives provide a benefit to the recipient under 19 U.S.C. § 1677(5)(E).

c. **Specificity**

According to the United States government, this program is specific within the meaning of 19 U.S.C. § 1677(5A)(D), as assistance is available only to select sectors and enterprises.[44]

B. **Tax Programs**

Russian cold-rolled steel producers also may have benefitted from tax incentives based either on their location in special economic zones, or their mining operations for raw material inputs consumed in producing cold-rolled steel. As detailed below, the Department should investigate the subject producers' receipt of these countervailable tax programs during the POI.

1. **Tax Incentives in Special Economic Zones**

In accordance with Russian Federal Law No. 116-FZ of July 22, 2005, the GOR authorized the provision of a variety of tax incentives in select special economic zones ("SEZs").[45] Specifically, companies located in these SEZs are allowed exemptions and/or reductions on: (1) income taxes (rates of zero to 13.5 percent, instead of 20 percent); (2) property taxes (exemptions for 10-15 years); (3) transport taxes (exemptions for 10-15 years);

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[44] See U.S. Questions G/SCM/Q2/RUS/2 at 1 (appended at Exhibit 14).

[45] See 2014 WTO Notification at 23 (appended at Exhibit 12).

and (4) land taxes (exemptions for 5-10 years).[46] Further, certain SEZs also provide reductions for enterprises': (1) value-added taxes; (2) payments to social welfare funds,[47] and (3) duty-free importation of foreign goods.[48] According to the GOR, location in an SEZ can reduce an investor's expenses by as much as 30 percent.[49] In order to receive incentives in one of these zones, an application must be (1) submitted to the Ministry of Economic Development ("MOED") of the Russian Federation, and (2) accepted by the "Expert" Committee.[50] Following acceptance, the company will sign an agreement with the MOED and the SEZ management company.[51]

The GOR has established six industrial and production SEZs in the Republic of Tatarstan, Lipetsk, Samara, Sverdlovsk, Pskov, and Kaluga.[52] Russian cold-rolled steel producers operate in these regions. In particular, NLMK's main productive facilities are located in Lipetsk.[53] The priority businesses in the Lipetsk SEZ include: (1) ready-made metal products; (2) mechanical engineering; (3) production of transportation vehicles, equipment and components; and (4)

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46 See id.; see also Special economic zones in Russia – which and where, Ministry of Economic Development of the Russian Federation (July 16, 2015), http://www.ved.gov.ru/eng/investing/sez/ (appended at Exhibit 15).

47 See 2014 WTO Notification at 23 (appended at Exhibit 12).

48 See Special economic zones in Russia – which and where, Ministry of Economic Development of the Russian Federation (July 16, 2015) http://www.ved.gov.ru/eng/investing/sez/ (appended at Exhibit 15).

49 See id.

50 See id.

51 See id.

52 See id.

53 See A-Z list of assets, NLMK Group website (July 15, 2015), http://nlmk.com/our-business/operations/a-z-assets (appended at Exhibit 5).

construction materials.[54] Further, Severstal operates in Kaluga with its cold-rolled steel operations, Severstal-Gonvarri-Kaluga Steel Centre and Gestamp-Severstal-Kaluga Stamping Facility.[55] Based on Russian cold-rolled steel producers' operations in eligible locations and NLMK's production of a "priority" material for businesses in the Lipetsk zone (i.e., metal), Petitioners request the Department initiate an investigation into the receipt of any SEZ benefits during the POI.

a. Financial Contribution

Tax incentives in SEZs constitute a financial contribution in the form of revenue foregone by the GOR under 19 U.S.C. § 1677(5)(D)(ii).

b. Benefit

Under 19 C.F.R. §§ 351.509(a)(1) and 351.510(a)(1), the benefits conferred by these tax reductions and exemptions equal the amount of the firm's tax savings for both the direct (e.g., income) and indirect (e.g., VAT) taxes payable.

c. Specificity

SEZ tax incentives are specific in accordance with 19 U.S.C. § 1677(5A)(D)(iv), as the program is limited to select geographic regions in Russia.

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54 See Industrial Production SEZ: Lipetsk Region, Lipetsk, Ministry of Economic Development of the Russian Federation (July 15, 2015), http://economy.gov.ru/wps/wcm/connect/economylib4/en/home/activity/sections/specialEconomicAreas/main/zone02e/ (appended at Exhibit 16).

55 See Severstal 2014 Annual Report at 32 (appended at Exhibit 2).

2. Tax Incentives for Mining Operations

Russia possesses a significant share of global resources and accounts for a significant share of world production of many minerals.[56] While the GOR controls certain of these natural resources through direct ownership (e.g., natural gas), private companies have a significant presence in other fossil fuel sectors (e.g., coal).[57] Private enterprises, therefore, are responsible for implementing the GOR's goals of increased efficiency and expanded production.[58] The GOR facilitates these goals by providing mining rights for less than adequate remuneration (detailed below), as well as by providing tax incentives to companies involved in the identification and exploration of fossil fuels.

In particular, the GOR allows two special tax deductions of costs incurred by enterprises for research and development ("R&D") and exploration. The first incentive provides for the deduction of R&D and exploration costs from the company's taxable income.[59] The second provision extends a reduction in the extraction tax to those enterprises that fund R&D and exploration expenses through their own investments.[60] The standard Russian extraction tax for

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[56] See Overview: Russian Mining Regulation, King & Spalding (May 2012), http://www.kslaw.com/imageserver/kspublic/library/publication/russianmining.pdf at 1 (appended at Exhibit 17).

[57] See Sam Pickard & Shakuntala Makhijani for Oil Change International and the Overseas Development Institute, Fossil fuel exploration subsidies: Russia, at 2 and 6 (Nov. 2014) (appended at Exhibit 18).

[58] See id. at 2.

[59] See id. at 3.

[60] See id.

minerals, other than oil and gas, is fixed at 17.5 percent of the extracted value.[61] Critically, because the producers of the subject merchandise are vertically integrated and also own mining operations, they likely received tax incentives through this program.

Specifically, NLMK has subsidiaries/affiliates engaged in mining operations for a variety of raw materials, including: (1) iron ore concentrate and sinter ore (Stoilensky GOK); (2) limestone (OJSC Stagdok); (3) dolomite (OJSC Dolomite); and (4) coke-chemicals (OJSC Altai-Koks).[62]

Similarly, Severstal Resources, a subsidiary of the Severstal Group, is comprised of the company's mining operations in Kostomuksha, Olenegorsk, and Vorkuta. These operations supply almost all of the steel division's iron ore and hard coking coal requirements.[63] Indeed, Severstal has undertaken substantial modernizations and capacity expansions at the company's coal operations in Vorkutaugol during recent years that likely included significant capital expenditures for R&D and exploration.[64]

While the Department typically will attribute the subsidy to the recipient's production, in accordance with 19 C.F.R. § 351.525(b)(6)(i), the agency also attributes subsidies received by cross-owned affiliates to the subject merchandise in certain circumstances. See 19 C.F.R. § 351.525(b)(6)(ii)-(v). Cross-ownership is defined to exist when one corporation can use or direct

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[61] See Ivetta Gerasimchuk, Fossil Fuels – At What Cost? Government support for upstream oil and gas activities in Russia, at 117-18 (Feb. 2012) (appended at Exhibit 19).

[62] See NLMK Notes to 2014 Consolidated Financial Statements at 5 and 9 (appended at Exhibit 20).

[63] See Severstal 2014 Annual Report at 5 (appended at Exhibit 2).

[64] See Severstal 2013 Annual Report at 15, 33 (appended at Exhibit 3); Severstal 2014 Annual Report at 23 (appended at Exhibit 2).

the assets of another corporation essentially as its own. See 19 C.F.R. § 351.525(b)(6)(vi). Due to the cross-ownership between the cold-rolled steel producers and suppliers of the mineral raw materials, the benefits from these tax incentives would be attributable to the subject merchandise. In particular, under 19 C.F.R. § 351.525(b)(6)(iv), where there is cross-ownership between the an input supplier and the producer of the subject merchandise, and the input is primarily dedicated to production of the downstream product, the Department will attribute the benefits from countervailable subsidies received by the input supplier to the combined sales of the input and downstream product, excluding all inter-company transfers. As the mineral inputs supplied by NLMK's and Severstal's affiliated companies are primarily used in steel production, Petitioners request the Department initiate an investigation into these apparently countervailable tax incentives.

a. Financial Contribution

Both the income tax deduction and the reduction in the extraction tax constitute a financial contribution in the form of revenue foregone by the GOR under 19 U.S.C. § 1677(5)(D)(ii).

b. Benefit

Per 19 C.F.R. § 351.509(a)(1), the benefits conferred by these tax incentives equal the amount of the firm's tax savings.

c. Specificity

Tax incentives for R&D and exploration of fossil fuels are specific in accordance with 19 U.S.C. § 1677(5A)(D)(i), as the programs are limited expressly to enterprises involved in mining industries, a select sector in Russia.

C. Programs Involving the Provision of Goods and Services for Less Than Adequate Remuneration ("LTAR")

The GOR extends assistance to the Russian cold-rolled steel industry through the provision of critical inputs (including natural gas, electricity, freight transport, and mining rights) for less than adequate remuneration. In certain instances, the GOR provides these subsidies through its majority government-owned utility company, Gazprom, and the wholly government-owned transportation provider, Russian Railways. Consistent with the Department's practice,[65] the agency should treat these state-owned companies as government authorities and investigate the programs described below.

1. Provision of Natural Gas for Less Than Adequate Remuneration

According to the U.S. Energy Information Administration ("EIA"), Russia holds the largest global reserves of natural gas and is the second largest global producer of dry natural gas.[66] Further, natural gas production in Russia is dominated by Gazprom, the state-owned enterprise that alone accounts for a reported 74 percent of Russia's total natural gas production.[67] Gazprom also owns the vast majority of the Russian pipeline system that makes possible the distribution of natural gas, such that independent producers have been unable to gain access, thus

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65 See, e.g., Issues and Decision Memorandum for the Final Affirmative Countervailing Duty Determination in Certain New Pneumatic Off-the-Road (OTR) Tires from the People's Republic of China, at 10 (July 7, 2008).

66 See U.S. Energy Information Administration, Country Report: Russia, at 10 (revised March 12, 2014) (unpaginated) (appended at Exhibit 21).

67 See id.

stifling competition for the provision of natural gas within Russia.[68] Gazprom, therefore, is effectively able to control the Russian natural gas market.

Gazprom is controlled by Russian government. Although Gazprom shares are publicly traded on the Moscow Exchange, in addition to the London, Berlin, and Frankfurt stock exchanges through American Depository Receipts, the GOR owns over 50 percent of Gazprom's shares.[69] Indeed, as acknowledged in the company's 2014 financial statements, "the Government of the Russian Federation is the ultimate controlling party of OAO Gazprom."[70] Thus, the Russian government is able use Gazprom to implement its economic policy and pursue strategic development of important industries and sectors through the provision of gas.

In fact, the GOR has required Gazprom "to provide an uninterrupted supply of gas to customers in the Russian Federation at government controlled prices" since Gazprom was privatized in 1992.[71] As acknowledged by Gazprom, the company's natural gas prices "to final consumers in the Russian Federation are established mainly by the Federal Tariffs Service."[72] Further, according to the International Energy Agency ("IEA"), in 2014, the Russian government delayed proposed price increases for natural gas to Russian industries until July 2015 and July

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68 See id. at 13.

69 See Gazprom in global market, About Gazprom (July 15, 2015), http://www.gazprom.com/about/today/ (appended at Exhibit 22).

70 Gazprom 2014 Consolidated Financial Statements at 6 (emphasis added) (appended at Exhibit 23).

71 See id. at 50.

72 Id. at 15.

2016.[73] Therefore, during the proposed POI, the GOR implemented a policy, through Gazprom, to provide natural gas at below market prices. Indeed, the GOR provides federal funds, in additional to other incentives, so that Gazprom can provide natural gas to certain consumers at subsidized prices.[74] Accordingly, Petitioners request the Department investigate subject producers' benefit from the provision of natural gas for less than adequate remuneration in 2014.

a. Financial Contribution

Consistent with the statute[75] and the Department's findings in prior countervailing duty investigations involving other countries,[76] Gazprom is a government authority, providing Russian cold-rolled steel producers a financial contribution in the provision of goods, other than general infrastructure, in accordance with 19 U.S.C. § 1677(5)(D)(iii).

b. Benefit

To the extent Gazprom provides natural gas to the subject producers at less than adequate remuneration, it provides a benefit to the subject producers. See 19 C.F.R. § 351.511(a)(1) and 19 U.S.C. § 1677(5)(E)(iv). In measuring the adequacy of remuneration, the statute provides that such a determination must be assessed in relation to the prevailing market conditions in the

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73 See IEA World Energy Outlook 2014, Recent Development in Energy Subsides, available at http://www.iea.org/media/weowebsite/developmentsenergysubsidies.pdf (appended at Exhibit 24).

74 See Ivetta Gerasimchuk, Fossil Fuels – At What Cost? Government support for upstream oil and gas activities in Russia, at 38, 68 (Feb. 2012) (appended at Exhibit 19).

75 As stated in 19 U.S.C. § 1677(5)(B), "the term 'authority' means a government of a country or any public entity within the territory of the country."

76 See, e.g., Issues and Decision Memorandum for the Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination in the Countervailing Duty Investigation of Steel Concrete Reinforcing Bar from the Republic of Turkey, at 8 (Sept. 8, 2014) (provision of natural gas by BOTAS) referenced in 79 Fed. Reg. 54,963 (Sept. 15, 2014).

subject country, which include, price, quality, availability, marketability, transportation, and other conditions of purchase or sale. See 19 U.S.C. § 1677(5)(E). In light of these considerations, the Department has established a hierarchy to assess adequacy of remuneration, with the first criterion involving a comparison between the government-determined price and a market-determined price, based upon actual transactions in the country. See 19 C.F.R. § 351.511(a)(2)(i).

However, when the government "constitutes a majority, or in certain circumstances, a substantial portion of the market," the Department will use the second criterion in the hierarchy based on the reasonable conclusion that "actual transaction prices are significantly distorted as a result of the government's involvement in the market."[77] Indeed, the Department consistently has found such market distortion in prior investigations in which the level of government involvement is similar to, or even less than, the 74 percent market share of Russian's natural gas market held by Gazprom.[78] Thus, the benefit from Gazprom's provision of natural gas should be evaluated in accordance with 19 C.F.R. § 351.511(a)(2)(ii), by comparing Gazprom's prices to world market prices for natural gas.

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[77] See Countervailing Duties: Final Rule, 63 Fed. Reg. 65,348, 65,377 (Nov. 25, 1998).

[78] See, e.g., Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of 53-Foot Domestic Dry Containers from the People's Republic of China, at 20 (Apr. 10, 2015) (finding market distortion with state-ownership of 67 percent of the domestic production of hot-rolled steel sheet and strip) referenced in 80 Fed. Reg. 21,209 (Apr. 17, 2015); Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Aluminum Extrusions from the People's Republic of China, at 34 (Mar. 28, 2011) (finding market distortion with state-ownership of more than 50 percent of the domestic production of primary aluminum) referenced in 76 Fed. Reg. 18,521 (Apr. 4, 2011).

According to Gazprom's own data, its natural gas prices are substantially below prices in the world market. In particular, between 2009 and 2013, Gazprom's average natural gas prices were consistently less than half the average prices in the former Soviet bloc countries and averaged only a third of the prices in Europe.[79] Given this established pattern of offering below market prices, and GOR's continued refusal to increase prices throughout 2014, Gazprom clearly provides natural gas for less than adequate remuneration, conferring a benefit upon Russian cold-rolled steel producers.

c. Specificity

As stated above, the rates charged by Gazprom are established in accordance with the Federal Tariffs Service ("FTS"). While most recently available public data cover a period before the POI (i.e., from 2008 to 2011), this information shows a clear pattern in which the largest consumers of natural gas are charged the lowest prices.[80] Thus, in establishing these rates, the GOR is providing natural gas for less than adequate remuneration to a select group of enterprises and industries under 19 U.S.C. § 1677(5A)(D)(i). Further, cold-rolled steel producers in Russia are likely to be significant consumers of natural gas, due to the high energy demands for production of the subject merchandise. The provision of natural gas for less than adequate remuneration, therefore, is likely to be specific in accordance with § 1677(5A)(D)(iii)(II) and (III).

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79 See Gazprom in Figures 2009-2013 Factbook: Unlocking the Planet's Potential, at 66. (appended at Exhibit 25).

80 See Natural gas price for end consumers (including VAT), Frontier Science (July 15, 2015) http://www.fstrf.ru/eng/tariffs/analit_info/gas/gaz5.png (appended at Exhibit 26).

2. Provision of Electricity for Less than Adequate Remuneration

Russia's power sector, outside of nuclear energy, is regulated by the Ministry of Energy.[81] The Ministry of Energy "is a state executive authority, responsible for the development and implementation of national policy as well as legal regulation in the sphere of fuel and enectricity {sic} complex."[82] While most of Russia's power generation sector reportedly has been privatized in the last decade, the GOR has maintained control over the transmission and distribution of electricity within Russia through the Federal Grid Company ("FGC"), which is 70 percent owned by the GOR.[83] Ownership of this network allows the GOR to control the supply and prices of electricity to consumers throughout Russia.

Moreover, the GOR is able to control the Russian electricity market through Gazprom. In addition to natural gas, Gazprom also is the largest supplier of heat and electrical power in Russia.[84] Gazprom supplies electricity based upon tariffs that are regulated by the Federal Tariff Service.[85] Thus, through Gazprom, the GOR is able to provide electricity for less than adequate remuneration to select enterprises and industries. Petitioners, therefore, request that the

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81 See Country Report: Russia, U.S. Energy Information Administration at 15 (unpaginated) (revised March 12, 2014) (appended at Exhibit 21). Nuclear power falls under the auspices of the State Atomic Energy Corporation. See id.

82 See About Ministry, Ministry of Energy of the Russian Federation (July 15, 2015), http://minenergo.gov.ru/en/ (appended at Exhibit 27).

83 See Country Report: Russia, U.S. Energy Information Administration, at 15 (revised March 12, 2014) (unpaginated) (appended at Exhibit 21).

84 See Gazprom in global market, About Gazprom (July 15, 2015), http://www.gazprom.com/about/today/ (appended at Exhibit 28).

85 Gazprom 2014 Consolidated Financial Statements at 50 (appended at Exhibit 23).

Department initiate an investigation of whether Russian cold-rolled steel producers received electricity from the GOR for less than adequate remuneration during the POI.

a. Financial Contribution

As detailed above, Gazprom is a government authority that provides goods for less than adequate remuneration, constituting a financial contribution under section 771(5)(D)(iii) of the Act. See 19 U.S.C. § 1677(5)(D)(iii).

b. Benefit

To the extent Gazprom provides electricity to the subject producers at less than adequate remuneration, it provides a benefit to the subject producers. See 19 C.F.R. § 351.511(a)(1) and 19 U.S.C. § 1677(5)(E)(iv). In calculating this benefit, the Department's preference is to compare the government price to market-determined prices in the country. See 19 C.F.R. § 351.511(a)(2)(i). Similar to natural gas, however, the GOR's control over the electrical transmission and distribution network has significantly distorted the electricity market in Russia. The Department, therefore, should assess the benefit from Gazprom's provision of electricity to the subject producers pursuant to 19 C.F.R. § 351.511(a)(2)(ii), comparing Gazprom's prices to prices for electricity on the world market.

As shown in Exhibit 29, the 2014 monthly average prices of electricity imported into Russia were lower than the monthly average prices for imported electricity in European and former Soviet bloc countries, in all but four months of the proposed POI.[86] Specifically, Russian

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86 The Department has relied on similar world trade statistics to determine the adequacy of remuneration in prior countervailing duty investigations. See, e.g., Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of 53-Foot Domestic Dry Containers from the People's Republic of China, at 35 (Apr. 10, 2015).

average electricity prices ranged between 6.1 percent and 57.5 percent below the reported prices in other markets. Thus, while the actual electricity prices paid by Russian cold-rolled steel producers are not publicly available, the significant price differential apparent in the trade statistics indicates Russian electricity prices likely are provided for less than adequate remuneration, conferring a benefit on the subject producers.

c. Specificity

The tariffs for electricity sold through Gazprom that are established by the FTS seek to support distinct sectors and industries in Russia. The provision of electricity, therefore, is specific in accordance with 19 U.S.C. § 1677(5A)(D)(i).

3. Provision of Freight Transport for Less Than Adequate Remuneration

Although JSC "Russian Railways" reportedly "was created by the privatization of the property of the federal railway transport," the company's sole shareholder remains the GOR.[87] Russian Railways holds a "natural monopoly" and maintains a "dominant position" in Russian freight transportation, as the "world's third largest railway in terms of freight turnover."[88] Further, the company notes that as "many of Russia's natural resources are in remote, harsh, and sparsely populated regions," "a highly developed railway system is vital to Russia."[89] In fact,

[87] See Overview, Russian Railways website (July 15, 2015), http://eng.rzd.ru/statice/public/en?STRUCTURE_ID=4223 (appended at Exhibit 30).

[88] See id.

[89] See The Company, Russian Railways website (July 15, 2015), http://eng.rzd.ru/statice/public/en?STRUCTURE_ID=4 (appended at Exhibit 30).

railway freight services remain the main source of Russian transport, accounting for 85 percent of all freight transport, excluding pipeline services, in recent years.[90]

Further, as noted by the President of Russian Railways, "{i}mproving the quality of and access to infrastructure creates the conditions for economic development."[91] To serve the dual purposes of providing transport services and facilitating Russia's economic goals, Russian Railways signed a cooperation agreement with the Bank for Development and Foreign Economic Affairs State Corporation (Vnesheconombank).[92] This agreement aimed to (1) encourage high-tech industrial production in Russia; (2) increase and diversify Russian exports of goods, services, and technologies; and (3) strengthen Russian manufacturers' global competitiveness.[93] Russian Railways' role in Russia's economic development, therefore, clearly extends beyond just that of a transportation company.

Indeed, Russian Railways, directly and through its affiliates, does provide a wide range of freight services, including, provision of shipment containers, logistics, and storage services, in addition to actual freight transport.[94] In the past, the GOR regulated railway prices through the

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90 See Organization for Economic Cooperation and Development, Recent Developments in Rail Transportation Services 2013, DAF/COMP(2013)24, at 168 (June 2013) (appended at Exhibit 31).

91 See Russian Railways News, Russian Railways website (July 15, 2015), http://eng.rzd.ru/newse/public/en?STRUCTURE_ID=4185&layer_id=4839&id=105869 (Feb. 9, 2012) (appended at Exhibit 30).

92 See Russian Railways News, Russian Railways website (July 15, 2015), http://eng.rzd.ru/newse/public/en?STRUCTURE_ID=4185&layer_id=4839&id=106171 (June 21, 2013) (appended at Exhibit 30).

93 See id.

94 See Freight, Russian Railways website (July 15, 2015), http://eng.rzd.ru/statice/public/en?STRUCTURE_ID=10 (appended at Exhibit 30).

establishment of tariff rates for both passengers and freight.[95] Since January 2013, however, the GOR, through its regulatory authority FST Russia, has implemented a new "tariff corridor," fixing the minimum and maximum rates that rail freight companies may charge to their customers.[96] While the prior system of fixed prices prevented "discriminatory pricing," according to the GOR, the Russian government concedes such preferential pricing "is possible" under the current tariff system.[97]

In fact, the new tariff system allows Russian Railways to combine the aims of providing transport services and promoting economic development by extending preferential rates to encouraged companies and industries. For example, Russian Railways specifically references the provision of "specialized transport solutions" to Mechel, Evraz, and Severstal, Russian steel producers.[98] Based upon this evidence, Petitioners request the Department initiate an investigation into whether Russian Railways provided freight services for less than adequate remuneration to subject producers during the POI.

a. Financial Contribution

The GOR, through Russian Railways, provides a financial contribution in the provision of freight transport, a good or service, for less than adequate remuneration to Russian cold-rolled steel producers in accordance with 19 U.S.C. § 1677(5)(D)(iii).

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95 See Organization for Economic Cooperation and Development, Recent Developments in Rail Transportation Services 2013, DAF/COMP(2013)24, at 163 (June 2013) (appended at Exhibit 31).

96 See id. at 163, 176.

97 See id. at 176.

98 See Heavy industry, Russian Railways website (July 15, 2015), http://eng.rzd.ru/statice/public/en?STRUCTURE_ID=4296 (appended at Exhibit 30).

b. <u>Benefit</u>

Under this subsidy program, the benefit conferred equals the difference between the government-provided freight charges paid by subject producers and the market-determined prices for similar transactions within Russia. See 19 U.S.C. § 1677(5)(E)(iv); 19 C.F.R. § 351.511(a)(2)(i). While actual transaction prices, including the rates paid by Russian cold-rolled steel manufacturers, are not publicly available to Petitioners, the evidence detailed above suggests freight services likely are provided for less than adequate remuneration.

c. <u>Specificity</u>

Given Russian Railways' goal of promoting economic development, below-market freight rates likely are given in practice to a limited number of companies or industries, making this subsidy specific under 19 U.S.C. § 1677(5A)(D)(iii)(I). In addition, based on the extensive freight transport required in the shipments of both raw materials and finished products within the steel industry, there is a reasonable indication that this program also is specific in accordance with 19 U.S.C. § 1677(5A)(D)(iii)(II)-(III).

4. <u>Provision of Mining Rights for Less than Adequate Remuneration</u>

The provision of mining rights in Russia is based primarily on Federal Law "On Subsoil" of February 21, 1992, and the subsequent ministerial orders and regulations that control the licensing regime for the exploration and production of minerals.[99] Further, the Federal Subsoil Resources Management Agency, which operates under the Russia's Ministry of Natural

[99] See Overview: Russian Mining Regulation, King & Spalding, at 2 (appended at Exhibit 17).

Resources, administers the issuance of licenses for mineral rights.[100] This agency "makes decisions on granting of the right of use," in addition to "decisions on the early termination, suspension or limitation on the right to use subsoil sites."[101] Thus, this government agency, known as Rosnedra, "is involved in all aspects of exploration for and production of fossil-fuels from the sub-surface."[102]

While state-owned enterprises in Russia dominate certain sectors, such as Gazprom's dominance in the provision of natural gas and electricity, the development and production of other natural resources, including coal, is controlled by private companies.[103] Private enterprises, therefore, must work with the GOR in order to implement national goals of increased efficiency and expanded production.[104] Accordingly, the companies that are selected by Rosnedra to obtain licensing rights play an important role in Russia's economic development, and Rosnedra must exercise significant discretion in the decision-making process.[105]

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[100] See Regulations on the Federal Subsoil Resources Management Agency, approved by Resolution of the Government of the Russian Federation No. 293, dated June 17, 2004, available at https://www.mnr.gov.ru/english/fsrma.php (appended at Exhibit 32).

[101] See id.

[102] See Sam Pickard & Shakuntala Makhijani for Oil Change International and the Overseas Development Institute, Fossil fuel exploration subsidies: Russia, at 2 (Nov. 2014) (appended at Exhibit 18).

[103] See id.

[104] See id. at 6.

[105] In fact, companies frequently must commit to reach annual production targets in order to obtain licensing rights. See Overview: Russian Mining Regulation, King & Spalding, at 2 (appended at Exhibit 17).

Russian cold-rolled steel producers have received mineral rights in recent years.[106] For example, NLMK acquired licenses for the exploration and extraction of coal in the Zhernovsky Glubokiy coal fields in August 2005 and May 2011.[107] The company also acquired licenses for coal exploration and extraction in the Usinsky coal deposit in March 2011.[108] NLMK also holds mineral rights for iron ore and non-metallics mining at Stoilensky iron ore deposit in Belgorod Region, which were acquired in business combinations in 2004.[109]

While the Department has not previously conducted a countervailing duty investigation against subject merchandise from Russia, it has investigated and countervailed the provision of mining rights for less than adequate remuneration in other proceedings. For instance, in Carbon Steel Flat Products from India, the Department examined the provision of captive mining rights for both iron ore and coal and determined that the Indian government extended such rights to a select group of companies – including steel producers – for less than adequate remuneration.[110] Based on the same considerations, Petitioners request that the Department initiate an investigation into the GOR's provision of mining rights to Russian cold-rolled steel producers.

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[106] While Severstal has substantial mining operations, the company's financial reports do not provide sufficient details as to when these rights were acquired. See Severstal 2014 Annual Report at 25-26 (appended at Exhibit 2). The Department's investigation, however, also should examine Severstal's potential receipt of benefits under this program.

[107] See NLMK's Notes to 2014 Consolidated Financial Statements at 19 (appended at Exhibit 20).

[108] See id.

[109] See id.

[110] See Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Hot-Rolled Carbon Steel Flat Products from India 73 Fed. Reg. 1578, 1591-92 (Jan. 9, 2008) affirmed in Issues and Decision Memorandum for Final Results of Countervailing Duty Administrative Review of Certain Hot-Rolled Carbon Steel Flat Products from India, at 18-20 (July 7, 2008) ("I&D Memo 2006 AR Carbon Steel from India").

a. Financial Contribution

Rosnedra, a government authority under 19 U.S.C. § 1677(5)(B), provides licensing rights to Russian cold-rolled steel producers, which constitutes a financial contribution in accordance with the statute. See 19 U.S.C. § 1677(5)(D)(iii).

b. Benefit

The GOR's provision of mining rights provides a benefit to subject producers to the extent these rights are extended for less than adequate remuneration. See 19 C.F.R. § 351.511(a)(1) and 19 U.S.C. § 1677(5)(E)(iv). In Carbon Steel Flat Products from India, the Department evaluated similar mining rights by calculating company-specific weighted average costs for iron ore and coal provided the government.[111] Petitioners, however, are unable to perform such a calculation due to the lack of public information on Russian cold-rolled steel manufacturers' actual costs and production of the minerals in question, and on the terms of the underlying transactions. Nevertheless, given that NLMK's reported carrying value for these licenses are low, between $6,346 and $102,927,[112] it is reasonable to conclude that the GOR has provided these mining rights for less than adequate remuneration.

c. Specificity

As the Department has determined in prior investigations, mining rights are as a matter of fact, provided to a limited number of industries, including steel producers,[113] and thus, are specific in accordance with 19 U.S.C. § 1677(5A)(D)(iii)(I).

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[111] See I&D Memo 2006 AR Carbon Steel from India at 18, 20.

[112] See NLMK's Notes to 2014 Consolidated Financial Statements at 19 (appended at Exhibit 20).

[113] See, e.g., I&D Memo 2006 AR Carbon Steel from India at 18, 20.

D. Preferential Export Financing

As stated in section C.3., the encouragement of exports is one of the means by which the GOR seeks to strengthen economic growth in Russia. In order to advance this goal, Eximbank of Russia ("Eximbank") and Russian Agency for Export Credit and Investment Insurance ("EXIAR"), two organizations within the Vnesheconombank (Bank for Development and Foreign Economic Affairs State Corporation) Group, provide export financing. For the reasons detailed below, the Department should investigate these loan programs.

1. Eximbank Financing

The Eximbank of Russia was created in 1994 to encourage exports, develop import-substitution businesses, and attract foreign investment into Russia.[114] As an agent of the GOR, the Eximbank meets these goals through the provision of loans and loan guarantees to Russian exporters.[115] In particular, through Pre-Export Financing, the Eximbank extends loans with maturity of up to five years to Russian exporters.[116] Within this program, high value-added goods have priority.[117]

In addition, Eximbank also provides loan guarantees to Russian companies in order to enable the implementation of export projects.[118] Different types of loan guarantees are available

114 See Russian Specialized Government Export-Import Bank EXIMBANK OF RUSSIA: Bank of Russian exporters, at 2 (Moscow 2014) (appended at Exhibit 33).

115 See id. at 3.

116 See id. at 9.

117 See id.

118 See id. at 10.

at variable terms and conditions.[119] Since 2005, Eximbank has provided loan guarantees valued at U.S.$ 2.4 billion.[120]

While neither Severstal nor NLMK reports Eximbank loans, both companies have substantial export sales, making them eligible to receive such financing.[121] Accordingly, the Department should investigate whether Russian cold-rolled steel producers benefitted from Eximbank financing during the POI.

a. **Financial Contribution**

As an agent of the GOR, Eximbank provides a financial contribution through either the direct transfer of funds (loans), or potential direct transfer of funds (loan guarantees), in accordance with 19 U.S.C. § 1677(5)(D)(i).

b. **Benefit**

The benefit conferred by an Eximbank loan equals the difference between the amount paid for such a loan and the amount the company would pay for a comparable commercial loan on the market. See 19 U.S.C. § 1677(5)(E)(ii). For Eximbank loan guarantees, the benefit equals the difference between the amount the company pays for the guaranteed loan, versus the amount the company would pay for a comparable commercial loan, absent the government guarantee. See 19 U.S.C. § 1677(5)(E)(iii).

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119 See id.

120 See id. at 4.

121 See NLMK 2014 Annual Report at 4-5 (appended at Exhibit 20); Severstal 2014 Annual Report at 22 (appended at Exhibit 2).

c. Specificity

Eximbank financing is specific under 19 U.S.C. §§ 1677(5A)(A) and (B) because these loans and loan guarantees are contingent upon export.

2. Export Insurance Agency of Russia Export Credit Insurance

The Export Insurance Agency of Russia ("EXIAR") was established in 2011 to provide export credit insurance on commercial and political risks.[122] In addition, since 2013, EXIAR also offers insurance coverage against political risks for Russian investments abroad.[123] EXIAR extends this insurance coverage to Russian exporters, Russian and foreign lending organizations, and banks, with priority given to industries outlined in the Agency's Development Strategy.[124]

In particular, EXIAR will cover up to 95 percent of losses due to political risk and up to 90 percent of losses from commercial risks for each insured transaction.[125] Further, in addition to this indemnity for losses, EXIAR provides additional benefits for Russian exporters, such as: (1) deferred payment; (2) lifting of administrative liabilities and sanctions under the Code of Administrative Offences and currency control regulations; and (3) VAT exemption for the cost of EXIAR's insurance premium.[126]

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[122] See History, EXIAR website (July 15, 2015), https://www.exiar.ru/en/about/history/ (appended at Exhibit 34).

[123] See Profile, EXIAR website (July 15, 2015), https://www.exiar.ru/en/about/profile/ (appended at Exhibit 34).

[124] See id.

[125] See id.

[126] See Working with EXIAR: the benefits for exporters, EXIAR website (July 15, 2015), https://www.exiar.ru/en/prodserv/the-benefits-for-exporters/ (appended at Exhibit 34).

Given these facts, and the importance of export markets to NLMK and Severstal, as noted above, Petitioners request that the Department initiate an investigation into EXIAR's credit insurance.

a. Financial Contribution

EXIAR provides a financial contribution under the statute through the potential direct transfer of funds in its export credit insurance. See 19 U.S.C. § 1677(5)(D)(i).

b. Benefit

For export insurance programs, a benefit exists to the extent that the premiums charged by EXIAR are inadequate relative to EXIAR's long-term operating costs and losses. See 19 C.F.R.§ 351.520(a)(1). Because EXIAR was established in 2011, it is difficult to determine at this time whether the agency will be able to cover its long-term operating costs and losses. Moreover, the amount of the company's benefit equals the difference between the premium paid and amount received during the POI. See 19 C.F.R.§ 351.520(a)(2). Neither NLMK's nor Severstal's receipt of funds from EXIAR credit insurance is publicly available information. Petitioners, therefore, are unable to confirm the receipt of benefits under this program.

c. Specificity

EXIAR credit insurance only is available to Russian exporters, and therefore, is specific in accordance with 19 U.S.C. §§ 1677(5A)(A) and (B).

E. Regional Government Subsidies

In addition to the federal government, Russian regional governments also provide a variety of incentives to promote the development of select geographic locations or of key economic sectors. As detailed below, the Department should investigate Russian cold-rolled steel producers' receipt of these regional incentives.

1. Incentives in Lipetsk's Regional Special Economic Zones

On August 18, 2006, the Lipetsk Regional Administration adopted legislation supporting the establishment of eight regional special economic zones ("RSEZs").[127] In accordance with this legislation, companies interested in operating within a RSEZ are required to submit an application to the regional authority in Lipetsk.[128] Upon approval, enterprises located in these RSEZs are provided with tax incentives and "other preferences" for a ten-year period.[129]

In particular, investors are provided with numerous incentives, including:

- a reduction of income tax rate by 4.5 percentage points for 5 to 7 years;
- exemption from property tax for 7 years;
- exemption from transport tax for 10 years;
- loan repayment guarantees by the Lipetsk Regional Administration;
- property from the regional pledge funds to secure loan repayment; and
- subsidies to cover a part of interest payments under investment loans made by Russian credit institutions.[130]

One of the eight specially-designated areas in Lipetsk is the Dankov RSEZ.[131] NLMK maintains operations in Dankov through Dolomit, NLMK's subsidiary dolomite supplier that

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127 See Regional special economic zones, Lipetsk Regional Administration (July 15, 2015), https://admlip.ru/eng/sez/sez-of-lipetsk-region/ (appended at Exhibit 35).

128 See id.

129 See id.

130 See id. Indeed, the list of incentives provided in these RSEZs is much broader than two tax incentives (reduced corporate income tax rate and property tax for five years) reported to the WTO for Lipetsk. See 2013 WTO Notification at 20 (appended at Exhibit 11); 2014 WTO Notification at 40 (appended at Exhibit 12).

131 See Regional special economic zones, Lipetsk Regional Administration (July 15, 2015), https://admlip.ru/eng/sez/sez-of-lipetsk-region/ (appended at Exhibit 35).

provides 100 percent of the raw materials necessary for the company's steel production.[132] According to 19 CFR § 351.525(b)(6)(iv), subsidies provided to an input primarily dedicated to the production of a downstream product are attributable to the production of both products. In light of this information, Petitioners request that the Department initiate an investigation to determine whether NLMK benefitted from incentives provided in Lipetsk's Dankov RSEZ during the POI.

a. Financial Contribution

In accordance with Section 771(5)(D)(ii) of the Act, tax reductions and exemptions provide a financial contribution in the form of revenue foregone by the GOR or regional governments. Moreover, incentives related to loan repayment or interest rate subsidies constitute financial contributions through the direct transfer, or potential direct transfer, of funds by government authorities. See 19 U.S.C. § 1677(5)(D)(i).

b. Benefit

Enterprises located in Lipetsk's RSEZ are provided with a variety of distinct benefits. While the benefits conferred by tax incentives equal the total tax savings allowed under the program (see 19 C.F.R. § 351.510(a)(2)), the benefit from a government loan guarantee equals the difference between the amount the company pays for the guaranteed loan, compared to a commercial loan the company actually could obtain on the market. See 19 C.F.R. § 351.506(a)(1). Finally, subsidies to cover interest rate payments confer a benefit to the recipient in the amount of the contribution, the same as a government grant. See 19 C.F.R. §351.504(a).

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[132] See A-Z list of assets, NLMK Group website (July 15, 2015), http://nlmk.com/our-business/operations/a-z-assets (appended at Exhibit 5). See also NLMK 2014 Notes to the Consolidated Financial Statements at 9 (appended at Exhibit 20).

c. Specificity

Lipetsk's RSEZs are limited to eight specially-designated areas within Lipetsk and, thus, are specific in accordance with 19 U.S.C. § 1677(5A)(D)(iv).

2. **Income Tax Reductions and Property Tax Exemptions for Key Sectors in the Republic of Karelia**

As stated in the GOR's notification to the WTO, the Government of the Republic of Karelia ("GORK") provides tax incentives to key economic sectors in the region in order to promote economic development.[133] Specifically, in accordance with the Law of the Republic of Karelia No. 384-ZRK of December 30, 1999 and the Law of the Republic of Karelia No. 787-ZRK of June 26, 2004, enterprises in key sectors are provided with: (1) the reduced income tax rate of 13.5 percent; and (2) exemption from property taxes.[134] These benefits are only extended to select industries, with the provincial government maintaining the discretion to assist key sectors with investment projects.[135]

The GORK has defined the priority industries with "investment potential" as: (1) transport infrastructure; (2) power engineering; (3) timber processing complex; (4) mining; (5) ferrous and non-ferrous metallurgy; (6) fishery; and (7) tourism.[136] Thus, the GORK clearly considers enterprises within the mining and metals sectors to be a "priority," and thereby, steel producers would be eligible to benefit from these tax incentives for "investment projects."

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133 See 2014 WTO Notification at 37 (appended at Exhibit 12).

134 See id.

135 See id.

136 See Investment potential of the Republic of Karelia, The Official Karelia (July 15, 2015), http://www.gov.karelia.ru/gov/Power/Ministry/Development/Docum/100323_e.html (appended at Exhibit 36).

Severstal's mining operation Karelsky Okatysh, located in Karelia, has undertaken substantial investments in recent years in order to become "one of the country's leading and most modern iron ore mining complexes."[137] In fact, Severstal "has replaced all of its major equipment for both its underground operations and open pit mines" in recent years.[138] Indeed, Karelsky Okatysh reported record production in 2013, due to the company's undertaking investments "during the 'fat years for mining' in 2010 to 2011."[139]

Accordingly, Petitioners request that the Department initiate an investigation into Severstal's receipt of tax incentives from the GORK during the POI.

a. Financial Contribution

Income tax reductions and exemptions provide a financial contribution in the form of revenue foregone by the Russian government in accordance with Section 771(5)(D)(ii) of the Act.

b. Benefit

The benefits to the recipient conferred by these tax incentives equal the total tax savings allowed under the program. See 19 C.F.R. § 351.510(a)(2).

c. Specificity

The GORK expressly authorized the provision of tax incentives to key, limited economic sectors in the region, making this program specific in accordance with 19 U.S.C. § 1677(5A)(D)(i).

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[137] Severstal 2014 Annual Report at 25 (appended at Exhibit 2).

[138] Severstal 2013 Annual Report at 46 (appended at Exhibit 3).

[139] See id. at 33.

III. CONCLUSION AND REQUEST FOR INVESTIGATION

As demonstrated above, the Government of the Russian Federation has provided substantial countervailable subsidies to Russian cold-rolled steel producers in order to encourage economic development and maintain employment and production in key sectors of the national economy. Based on this information, Petitioners request that the Department initiate a countervailing duty investigation of cold-rolled steel from Russia.

EXHIBIT LIST

Exhibit No.	Description
XIII-1	Company History, Severstal website (July 15, 2015), available at https://www.severstal.com/eng/about/company_history/index.phtml
XIII-2	Severstal 2014 Annual Report, available at http://www.severstal.com/eng/ir/results_and_reports/annual_reports/index.phtml
XIII-3	Severstal 2013 Annual Report, available at http://www.severstal.com/eng/ir/results_and_reports/annual_reports/index.phtml
XIII-4	Overview, NLMK Group website (July 15, 2015), available at http://nlmk.com/our-business/overview
XIII-5	A-Z list of assets, NLMK Group website (July 15, 2015), available at http://nlmk.com/our-business/operations/a-z-assets
XIII-6	NLMK 2013 Annual Report, available at http://nlmk.com/docs/tree/nlmk-annual-report-2013.pdf?sfvrsn=2
XIII-7	United States Trade Representative, Report on WTO Enforcement Actions: Russia (June 2014), available at https://ustr.gov/sites/default/files/2014%20WTO%20Enforcement%20report%20-%20Russia.pdf
XIII-8	SIMA Notice of Initiations of Investigations – Certain Steel Plate, Canada Border Services Agency website (July 15, 2015), available at http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/ad1406/ad1406-ni-eng.html
XIII-9	"CBSA looks at Russian and Indian hot-rolled carbon steel plates," Daily Commercial News (July 15, 2015), available at http://dailycommercialnews.com/Government/News/2015/6/CBSA-looks-at-Russian-and-Indian-hot-rolled-carbon-steel-plates-1008437W/
XIII-10	U.S. Internal Revenue Service, How to Depreciate Property (Pub. 946 Cat. No. 13081F) (2013)
XIII-11	World Trade Organization, New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures by the Russian Federation (May 16, 2013), G/SCM/N/253/RUS

Exhibit No.	Description
XIII-12	World Trade Organization, Revision to the New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures by the Russian Federation (May 1, 2014), G/SCM/N/253/RUS/Rev.1
XIII-13	World Trade Organization, Replies to Questions Posed by the United States Regarding the New and Full Notification of the Russian Federation (Apr. 25, 2014), G/SCM/Q2/RUS/7
XIII-14	Questions Posed by United States Regarding the New and Full Notification of the Russian Federation (July 29, 2013), G/SCM/Q2/RUS/2
XIII-15	Special economic zones in Russia – which and where, Ministry of Economic Development of the Russian Federation (July 16, 2015)
XIII-16	Industrial Production SEZ: Lipetsk Region, Lipetsk, Ministry of Economic Development of the Russian Federation (July 15, 2015), available at http://economy.gov.ru/wps/wcm/connect/economylib4/en/home/activity/sections/specialEconomicAreas/main/zone02e/
XIII-17	Overview: Russian Mining Regulation, King & Spalding (May 2012), available at http://www.kslaw.com/imageserver/kspublic/library/publication/russianmining.pdf
XIII-18	Sam Pickard & Shakuntala Makhijani for Oil Change International and the Overseas Development Institute, Fossil fuel exploration subsidies: Russia (Nov. 2014)
XIII-19	Ivetta Gerasimchuk, Fossil Fuels – At What Cost? Government support for upstream oil and gas activities in Russia (Feb. 2012)
XIII-20	NLMK 2014 Annual Report, available at http://nlmk.com/docs/treeru/annual-report-2014-.pdf?sfvrsn=2Status=Master&sfvrsn=2target=
XIII-21	U.S. Energy Information Administration, Country Report: Russia (revised March 12, 2014)
XIII-22	Gazprom in global market, About Gazprom (July 15, 2015), available at http://www.gazprom.com/about/today/
XIII-23	Gazprom 2014 Consolidated Financial Statements

Exhibit No.	Description
XIII-24	IEA World Energy Outlook 2014, Recent Development in Energy Subsides, available at http://www.iea.org/media/weowebsite/developmentsenergysubsidies.pdf
XIII-25	Gazprom in Figures 2009-2013 Factbook: Unlocking the Planet's Potential
XIII-26	Natural gas price for end consumers (including VAT), Frontier Science (July 15, 2015), available at http://www.fstrf.ru/eng/tariffs/analit_info/gas/gaz5.png
XIII-27	About Ministry, Ministry of Energy of the Russian Federation (July 15, 2015), available at http://minenergo.gov.ru/en/
XIII-28	Gazprom in global market, About Gazprom (July 15, 2015), available at http://www.gazprom.com/about/today/
XIII-29	Chart entitled: "Electricity Imports by EU Members and ex-Soviet Bloc Monthly 2014" (source: IHS Global Trade Atlas)
XIII-30	Overview, Russian Railways website (July 15, 2015), available at http://eng.rzd.ru/statice/public/en?STRUCTURE_ID=4223
XIII-31	Organization for Economic Cooperation and Development, Recent Developments in Rail Transportation Services 2013, DAF/COMP(2013) (June 2013)
XIII-32	Regulations on the Federal Subsoil Resources Management Agency, approved by Resolution of the Government of the Russian Federation No. 293, dated June 17, 2004, available at https://www.mnr.gov.ru/english/fsrma.php
XIII-33	Russian Specialized Government Export-Import Bank EXIMBANK OF RUSSIA: Bank of Russian exporters (Moscow 2014)
XIII-34	History, EXIAR website (July 15, 2015), available at https://www.exiar.ru/en/about/history/
XIII-35	Regional special economic zones, Lipetsk Regional Administration (July 15, 2015), available at https://admlip.ru/eng/sez/sez-of-lipetsk-region/
XIII-36	Investment potential of the Republic of Karelia, The Official Karelia (July 15, 2015), available at http://www.gov.karelia.ru/gov/Power/Ministry/Development/Docum/100323_e.html

July 28, 2015

DOC Inv. Nos. A-570-029, C-570-030, A-351-843, C-351-844, A-533-865, C-533-866, A-588-873, A-580-881, C-580-882, A-421-812, A-821-822, C-821-823, **A-412-824**
USITC Inv. Nos. 701-TA-___-- __, and 731-TA-___ - ___
Total Pages: 707
Antidumping and Countervailing Duty Investigations

PUBLIC VERSION
Business Proprietary Information has been removed from the attached volumes of the Petitions at: Volume I, pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, the Exhibit List, and Exhibits I-3-I-4 and I-10-I-15; and Volume XIV, pages 7-8 and Exhibits XIV-2-3 and 10-13.

The Honorable Penny S. Pritzker
Secretary of Commerce
Attention: Enforcement and Compliance
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

The Honorable Lisa R. Barton
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

Re: Petitions for the Imposition of **Antidumping** and Countervailing Duties: Certain Cold-Rolled Steel Flat Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and **the United Kingdom**

Dear Secretary Pritzker and Secretary Barton:

On behalf of AK Steel Corporation, ArcelorMittal USA LLC, Nucor Corporation, Steel Dynamics Inc., and United States Steel Corporation (collectively "Petitioners"), we hereby submit to the U.S. Department of Commerce (the "Department") petitions for the imposition of antidumping and countervailing duties on certain cold-rolled steel flat products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom (the "Petitions") pursuant to sections 701, 702(b), 731, and 732(b) of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. §§ 1671, 1671a(b), 1673 and 1673a(b)). Pursuant to the Department's regulations codified at 19 C.F.R. § 351.202(c), we hereby certify that the Petitions and required copies are being filed today with the International Trade Commission (the "Commission").

At the Department, for each of the Petitions, we are filing Volume I (Common Issues and Injury) matched with the corresponding volume that contains the country-specific information on sales at less-than-fair value or the provision of countervailable subsidies. Information pertaining to the allegations of sales at less-than-fair value for the People's Republic of China, Brazil, India, Japan, the Republic of Korea, Netherlands, Russia, and the United Kingdom is contained in Volumes II, IV, VI, VIII, IX, XI, XII, and XIV, respectively. Information concerning the countervailable subsidies provided by the People's Republic of China, Brazil, India, the Republic of Korea, and Russia is contained in Volumes III, V, VII, X, and XIII, respectively.

At the Commission, pursuant to instructions from Secretary Barton, we are filing an original and eight copies of: the narrative portion of the business proprietary version of Volume I (Common Issues and Injury); the narrative portion of the business proprietary version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). We are also filing an original and four copies of: the narrative portion of the public version of Volume I (Common Issues and Injury); the narrative portion of the public version of Volumes II, IV, VI, VIII, IX, XI, XII, and XIV; and the narrative portion of Volumes III, V, VII, X, and XIII (which are public documents). Finally, we are filing on CD-ROM complete sets of the business proprietary and public versions of the exhibits to all volumes of these Petitions in PDF format compatible with the Commission's EDIS system.

On behalf of Petitioners, we hereby request proprietary treatment for information designated as proprietary in these Petitions pursuant to the Department's regulations codified at 19 C.F.R. §§ 351.202(d) and 351.304 and the Commission's rules codified at 19 C.F.R. § 201.6(b). Business proprietary information is enclosed in single brackets ("[ ]").

The information in Volume I of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

(1) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): Exhibit I-13.

(2) *Terms of sale (but not terms of sale offered to the public) (19 C.F.R. § 351.105(c)(4)):* Exhibit I-14.

(3) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section)* (19 C.F.R. § 351.105(c)(5)): pages 31-32 and Exhibits I-4, I-12, and I-14.

(4) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)): Exhibit I-14 and Exhibit I-9.

(5) *The names of particular persons from whom business proprietary information was obtained (19 C.F.R. § 351.105(c)(9)):* Exhibit I-14.

(6) *The position of a domestic producer or workers regarding a petition* (19 C.F.R. § 351.105(c)(10)): pages 3 and 35.

(7) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 3-4, 12, 15, 25-28, 30-37, 39-40, 42-43, 45; and Exhibits I-3, I-10 – I-13, and I-15.

The information in the attached Volume XIV of these Petitions for which Petitioners request proprietary treatment, and the location of same, is as follows:

(1) *Production costs (but not the identity of the production components unless a particular component is a trade secret)* (19 C.F.R. § 351.105(c)(2)): Exhibit XIV-3.

(2) *Distribution costs (but not channels of distribution)* (19 C.F.R. § 351.105(c)(3)): Exhibits XIV-11 and 12.

(3) *Terms of sale (but not terms of sale offered to the public)* (19 C.F.R. § 351.105(c)(4)): pages 7-8; and Exhibits XIV-10-13.

(4) *Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions (other than business or trade secrets described in paragraph (c)(1) of this section)* (19 C.F.R. § 351.105(c)(5)): Exhibits XIV-10-11.

(5) *Names of particular customers, distributors, or suppliers (but not destination of sale or designation of type of customer, distributor, or supplier, unless the destination or designation would reveal the name)* (19 C.F.R. § 351.105(c)(6)): Exhibit XIV-10.

(6) *The names of particular persons from whom business proprietary information was obtained* (19 C.F.R. § 351.105(c)(9)): Exhibits XIV-2, 10, and 12.

(7) *Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter* (19 C.F.R. § 351.105(c)(11)): pages 7-8; and Exhibits XIV-2 and 10-13.

The single-bracketed business proprietary information in the attached Volumes I and XIV of these Petitions identified above is entitled to proprietary treatment in accordance with the Department's regulations codified at 19 C.F.R. § 351.304(a) and the Commission's rules codified at 19 C.F.R. § 201.6(b). Information for which proprietary treatment is requested is not available to the public. Public disclosure of this information would result in serious and substantial harm to the competitive position of the sources of the information and would impair the ability of the Department and the Commission to obtain information necessary to fulfill their statutory functions. The requisite certifications that substantially identical information is not available to the public are set forth as attachments to this letter, in accordance with the Commission's rules codified at 19 C.F.R. § 201.6(b).

Pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(b), Petitioners agree in principle to permit disclosure of the single-bracketed business proprietary information contained in these Petitions under an appropriately drawn administrative protective order ("APO"). Petitioners, however, reserve the right to comment on all APO applications prior to disclosure.

A public version of these Petitions has been prepared and is being filed simultaneously with this submission pursuant to the Department's regulations codified at 19 C.F.R. § 351.304(c)(1) and the Commission's rules codified at 19 C.F.R. § 201.8(f). The public version contains a public summary of the single-bracketed business proprietary information in sufficient detail to permit a reasonable understanding of the contents of these Petitions.

Should you have any questions regarding these Petitions, please contact the undersigned.

Respectfully submitted,

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Business Proprietary Information Has Been Deleted from pages 7-8 and Exhibits XIV-2-3 and 10-13.
PUBLIC VERSION

BEFORE THE
INTERNATIONAL TRADE ADMINISTRATION
UNITED STATES DEPARTMENT OF COMMERCE AND THE
UNITED STATES INTERNATIONAL TRADE COMMISSION

CERTAIN COLD-ROLLED STEEL FLAT PRODUCTS FROM THE UNITED KINGDOM

PETITION FOR THE IMPOSITION OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED

VOLUME XIV

INFORMATION RELATING TO UNITED KINGDOM – ANTIDUMPING DUTIES

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July 28, 2015

TABLE OF CONTENTS

LIST OF EXHIBITS

I. ALLEGATION OF SALES AT LESS THAN FAIR VALUE

This petition seeks the imposition of antidumping duties on imports of Cold-Rolled Steel Flat Products ("cold-rolled steel") from the United Kingdom. As discussed below, British producers and exporters have sold, or offered for sale, cold-rolled steel in the United States for less than fair value. Accordingly, Petitioners request that the Department initiate an investigation into whether sales are made in the United States at less than fair value. The general information required by Section 351.202 of the Department's regulations is provided in Volume I of this petition.

II. BRITISH PRODUCERS AND EXPORTERS OF COLD-ROLLED STEEL

A. Description Of The British Industry

Cold-rolled steel is manufactured in the United Kingdom by Caparo Precision Strip, Ltd., Ductile Stourbridge Cold Mills, Tata Steel UK, Ltd., Tata Steel Narrow Strip, Tata Steel Strip Products UK (collectively "Tata"), and Staystrip Group, Ltd.[1] The names and contact information for Tata and other potential producers/exporters of cold-rolled steel in the United Kingdom are listed in Volume I: General Issues And Injury at Exhibit I-1. The information provided in that exhibit is the information reasonably available to Petitioners. Petitioners believe

[1] The financial statements of Tata Steel UK, Ltd., ("TSUK") make clear that the Port Talbot production facility is part of its operations. The financial statements do not state whether it is the corporate entity controlling Tata Steel Narrow Strip. In the event that Tata Steel Narrow Strip is not a part of Tata Steel UK, Ltd., Petitioners ask that the Department collapse the two Tata producers per 19 CFR 351.401(f). Both producers have similar facilities, i.e., have hot and cold-rolling mills both of which are currently producing the subject merchandise. The Port Talbot Works (Tata Steel Strip Products UK) is an integrated steel producer manufacturing inter alia slab and hot-rolled coil for re-rolling. The Llanwern Works, also part of Tata Steel Strip Products UK, only has rolling capabilities and is therefore dependent on the Port Talbot works for either/both slab or hot-rolled band for re-rolling. Similarly, Tata Steel Narrow Strip is also not integrated and would depend on the Port Talbot Works for slab for re-rolling. Regardless of whether both facilities are under the Tata Steel UK, Ltd. umbrella, the companies would be part of Tata's UK holding company, Tata Steel UK Holding, Ltd., which is in turn a subsidiary of Tata Steel Europe. These companies are owned by the same ultimate parent, Tata Steel, Ltd. of India. Accordingly, the Department should collapse these entities for purposes of conducting its analysis.

that merchandise produced by Tata accounts for the vast majority of all U.S. imports of cold-rolled steel from the United Kingdom during the presumptive POI of July 1, 2014 through June 30, 2015.

B. Production Processes Of Tata

Tata is a fully integrated producer, beginning with the production of cold-rolled steel with self-produced coke and iron produced from the blast furnace method, converting the iron to steel in a basic oxygen furnace, and refining the steel prior to continuously casting steel slabs used in cold-rolled steel. The slabs are subsequently cold-rolled into steel coil. **Exhibit XIV-1** contains additional information about Tata's production process.

C. Known Importers Of British Cold-Rolled Steel

A complete list of known U.S. importers of British-manufactured cold-rolled steel is contained in Volume I: General Issues And Injury at **Exhibit I-3**.

III. DUMPING MARGIN METHODOLOGY

A. Normal Value

Petitioners were unable to obtain any British home market pricing information for cold-rolled steel products. *See* **Exhibit XIV-2**. Therefore, Normal Value was determined based upon an estimate of the cost of production in the home market for the average cost of production for representative non-specialty cold-rolled coil products, i.e., not painted, not otherwise coated, not tool steel, not electrical steel products. Petitioners developed a cost model to estimate Tata's average cost to produce such products. Petitioners also developed a cost model that matched a common cold-rolled steel product sold in the United States by Tata for which Petitioners had obtained price data.

Petitioners do not have access to the British producers' factor inputs or factor consumption rates in order to determine their costs in the United Kingdom. Accordingly, Petitioners relied on AK Steel's actual direct material consumption of raw material inputs, labor usage, and energy consumption as an estimate of the Tata's factors of production.

AK Steel is an appropriate producer to use to estimate factors of production for Tata as it has a similar production process to Tata. Both AK and Tata manufacture their own coke. Both AK and Tata are fully integrated producers using the blast furnace method of obtaining molten iron. Both AK and Tata utilize basic oxygen furnaces to manufacture steel, and both have their own cold and cold rolling mills and annealing facilities.

Petitioners then valued those factor inputs using United Kingdom import statistics and other information from the United Kingdom. *See* **Exhibit XIV-3**. This exhibit also contains a declaration by AK Steel's cost accountant as to the source of the data provided. Factory overhead is based on Tata Steel UK, Ltd.'s fiscal year 2013-14 financial statements and is described more fully below. With the exception of financial expense, all of SG&A expenses and profit are also based on Tata Steel UK's 2013-14 financial statements. Tata Steel UK's ultimate parent is The Tata Steel Group of India. Tata's financial expense is determined from the ultimate parent company's 2013-14 financial statements, the latest available full year financial statements available at the time of this filing.

1. Direct materials and scrap

Petitioners calculated the British producers' cost of direct materials and scrap by using the average CIF import value of these materials at the British port, imported into the United Kingdom for the period April 2014 through March 2015, the most recent twelve-month period available. Consistent with Departmental practice, Petitioners excluded imports from non-market economies, countries with generally-available export subsidies, and unspecified countries. See **Exhibit XIV-5**. Because the import data overlap the period of investigation, Petitioners do not inflate the data to the full POI per the Department's normal practice.

Petitioners believe it is appropriate to add the costs for foreign brokerage and handling to the importation of raw materials. However, the Department recently instructed Petitioners not to add such costs to raw materials in the *Non-Oriented Electrical Steel* petitions. Tata undoubtedly incurs such costs and as such it is appropriate to add them to the estimate of raw materials costs incurred by Tata. Nevertheless, Petitioners conservatively did not add these costs to the estimated costs of raw materials in the instant petition. Petitioners also did not add costs for inland transportation from the port to the plant. The visitor's guide to Tata's Port Talbot Works shows that the wharfs are close to the plant. See **Exhibit XIV-1**. To the extent that Tata incurs any costs for inland freight movement of raw materials, Petitioners have understated the costs to produce cold-rolled steel in Britain.

Moreover, Tata produces its steel slabs at its Port Talbot works. Tata produces cold-rolled steel at its Port Talbot, Llanwern, and Rotherham Works. See **Exhibit XIV-1**. The Llanwern Works is approximately 45 miles from the Port Talbot facility, while the Rotherham facility is approximately 223 miles away. See **Exhibit XIV-1**. The Llanwern and Rotherham Mills are only rolling mills and must receive slab from Port Talbot. Petitioners have no way to determine how much slab is rolled at Port Talbot compared to the other mills. Therefore, Petitioners do not estimate a cost for transferring slabs from Port Talbot to Llanwern and Rotherham, which understates the cost of producing cold-rolled steel at Tata's British plants.

2. Labor

Petitioners valued labor using information published by the U.S. Bureau of Labor Statistics, *International Labor Comparisons: International Comparisons of Hourly Compensation Costs in Manufacturing Industries, by Industry, 2008-2012*. According to these data, in 2012, the British hourly compensation costs for the manufacture of basic metals (ISIC 24) was US$ 33.49/hour. *See* **Exhibit XIV-6**. Petitioners calculated the British producers' cost of labor (wages and benefits) by inflating this value to the POI using the British CPI. *See* **Exhibit XIV-6.**

The resulting labor rate is US$ 34.85/hour. *Id.*

3. Energy and utilities

Petitioners relied upon publicly available information to value electricity, natural gas, steam, and water in the United Kingdom. The latest available electricity rates for industrial uses, as reported in the latest available edition of *Energy Prices & Taxes,* published by the International Energy Agency ("EIA") is the third quarter of 2014. This period overlaps the POI. The rate is 91.6 Great Britain Pounds ("GBP") per 1,000 kilowatt-hour for the third quarter of 2014 or US$0.1484 per kilowatt hour after converting to U.S. dollars using the POI exchange rate). These rates exclude taxes. Petitioners did not inflate the electricity rates to the full POI per the Department's normal practice of not inflating or deflating input values if the values overlap part of the POI. *See* **Exhibit XIV-7.** Petitioners used the same EIA publication to value natural gas. The latest available data from the United Kingdom, covers the final two quarters of 2014, a period that overlaps the POI. The rates for the final two quarters of 2014 were 20.93, and 24.11, respectively, with an average rate of 22.52 GBP per megawatt hour gross caloric value ("GCV"). These rates exclude taxes. Petitioners converted this amount to GBP/mmBTU and then to US$/mmBTU using universal conversion factors. **Exhibit XIV-4** contains the POI average Commerce investigations exchange rate calculation. Petitioners then adjusted this value to a POI value of US$ 10.6918/mmBTU. *See* **Exhibit XIV-7.**

Petitioners valued steam using the Department's current practice of assigning steam an value based on the heat value of steam as 14.52 percent of the input value of natural gas. *See New Pneumatic Off-the-Road Tires. See* **Exhibit XIV-7.**

Rates for both treated and untreated water for 2015-16 were obtained from the Welsh Water authority that provides water to the Port Talbot area. *See* **Exhibit XIV-8**.

4. Factory overhead, SG&A, and profit

Petitioners used Tata Steel UK Ltd.'s unconsolidated financial statements for the period ending March 31, 2014 to calculate financial ratios. Factory overhead was calculated as a percentage of direct material, labor, and energy. SG&A excluding net interest expense was calculated as a ratio of SG&A expense as a function of materials, labor, energy, and factory overhead.

Petitioners compared the cost of production as calculated above to the ex-factory prices of contained in the quotation as well as the average ex-factory price of exports of non-specialty cold-rolled products exported to the United States. In both cases, the ex-factory prices were substantially below the estimated costs of production. Accordingly, Petitioner based Normal Value on Constructed Value ("CV"). *See* **Exhibit XIV-9** for the financial ratio calculation worksheet and copies of Tata Steel UK Ltd.'s audited financial statements.

Petitioners used the information provided in Tata Steel Group's consolidated financial statements to derive financial ratios as it is the ultimate parent company of Tata Steel UK, Ltd. *See* **Exhibit XIV-9.**

With regard to the calculation of CV, Tata Steel UK, Ltd. had a loss of 7.12 percent as a function of combined materials, labor, energy, and factory overhead. Petitioners have conservatively used a zero percent profit rate in its calculation of CV.

5. Packing inputs

The packing costs reflected in the cost model are conservative in that they relate to domestic shipments which contain little packaging materials. Indeed, Petitioners only included costs for labor and energy consumed in the packing operations. Packaging for ocean-going shipments is usually more advanced in order to protect the steel from the elements. Petitioners valued the labor associated with packing using the surrogate labor rate, as described in the direct materials section, above. To the extent that Tata's packaging is more elaborate than AK Steel's, constructed value is understated.

IV. EXPORT PRICE

A. Export Price Based On A Price Quotation And Official U.S. Import Statistics

Petitioners obtained an actual transaction price for United Kingdom-produced cold-rolled steel from Tata to [ ] in the United States. **Exhibit XIV-10** contains a summary of the quotation data and a declaration from the AK Steel employee who obtained the information.

As the summary sheet notes, the price of the quotation was [ ]. The buyer noted that [ ]. Accordingly, Petitioners calculated movement charges through both possible freight routes using [ ]. This price is the starting price in the calculation of Export Price and the calculation of dumping duties contained in **Exhibit XIV-11.**

Petitioners calculated U.S. brokerage and handling charges using the average cost of brokerage and handling expenses reported for importing goods into the United States in *Doing Business 2015: United States* published by the World Bank. *See* **Exhibit XIV-12.**

Petitioners used inland trucking rates obtained from an AK Steel common carrier provider of freight services to determine the freight charges for [ ]. *See* **Exhibit XIV-12.**

There are no import duties on cold-rolled steel from the United Kingdom so no deduction was made for duties.

To estimate ocean freight and insurance charges, Petitioners obtained the CIF and Customs Values as well as import quantities for shipments from the United Kingdom to the respective ports of unlading for the POI, *i.e.*, [ ]. *See* **Exhibit XIV-13**. [ ]. Accordingly, Petitioners used the import data for all cold-rolled products specific to those port districts to estimate ocean freight and insurance charges as the sale [ ]. Petitioners used the average for the entire POI to value ocean freight and insurance charges to ensure that there were no potential distortions caused by fluctuations of freight rates.

Petitioners calculated foreign brokerage and handling charges using the average cost of brokerage and handling expenses reported for exporting goods from the United Kingdom in *Doing Business 2015: United Kingdom* published by the World Bank. *See* **Exhibit XIV-14**.

Petitioners deducted foreign inland freight charges from the Port Talbot plant to the port of lading, *i.e.*, Newport, Wales. Despite the fact that the Port Talbot facility has its own wharf, ship manifest data indicates that cold-rolled shipments from the United Kingdom almost all shipped from Newport. *See* **Exhibit XIV-15.**

Petitioners then deducted the movement charges from the starting prices to arrive at ex-factory prices in the United Kingdom. Petitioners then compared these prices to the constructed values calculated in **Exhibit XIV-3**.

B. Export Price Based On Average POI Customs Value For Cold-Rolled Steel

As described above, Petitioners calculated the average cost of production for non-specialty cold-rolled products, i.e., not painted, not coated, not tool steel, not electrical steel products. Petitioners compared this constructed value to the weighted-average POI Customs

Value (i.e., FOB Foreign Port Value) for cold-rolled steel products entered from the United Kingdom during the POI that matched these criteria.

Exhibit XIV-11 contains the calculation of Export Price and the Dumping Margins. Petitioners calculated the weighted-average POI Customs Value (i.e., FOB Foreign Port Value) for representative non-specialty cold-rolled coil products, i.e., not painted, not otherwise coated, not tool steel, not electrical steel products entered from the United Kingdom during the POI. These data were obtained directly from the official U.S. import statistics and are contained in **Exhibit XIV-16**. Petitioners disaggregated all imports of cold-rolled steel from the United Kingdom into their respective Harmonized Tariff Schedule ("HTS") numbers for the period April 1, 2014 through March 30, 2015. Petitioners excluded all HTS data that correspond to painted, plated, or otherwise coated products, and products further worked than cold-rolled steel. These products, while covered by the scope of the petition, are specialized products with greatly varying costs. Including these in the calculation of Export Price compared to a cost model that reflects the average cost of producing non-specialized products would greatly distort the dumping margins. Indeed, the per unit costs for these specialized products are often in the multiples of thousands of dollars per metric ton, while normal products are generally in the $600-$800 dollar per metric ton range. *See* **Exhibit XIV-12**. The weighted-average FOB Foreign Port price using this methodology is US$ 761.47 per metric ton.

Petitioners calculated foreign brokerage and handling charges using the average cost of brokerage and handling expenses reported for exporting goods from the United Kingdom in *Doing Business 2015: United Kingdom* published by the World Bank. *See* **Exhibit XIV-13.**

Petitioners calculated inland freight charges from the plant to the port of lading. Ship manifest data indicate that although there is a wharf at the Port Talbot facility, shipments of steel coils from that facility were shipped from Newport, Wales, not Port Talbot. *See* **Exhibit XIV-**

14. As was shown in **Exhibit XIV-1,** Newport is approximately 44.7 miles from Port Talbot. Petitioners applied the per mile per metric ton charges calculated based on the methodology employed by the World Bank in *Doing Business 2015: United Kingdom*. *See* **Exhibit XIV-13.**

Petitioners then deducted the movement charges from the starting prices to arrive at ex-factory prices in the United Kingdom. Petitioners then compared these prices to the constructed values calculated in **Exhibit XIV-3.**

V. DUMPING MARGINS

A. Comparison of Price Quotation To The Constructed Value Of Cold-Rolled Steel Products Manufactured By Tata

Using the cost model for the specific products corresponding to a U.S. sale discussed above, compared to the ex-factory price derived from that sale, Petitioners calculated a dumping margins ranging from 76.45 to 84.34 percent. *See* Exhibit XIV-11.

B. Comparison Of Average Customs Value For U.S. Imports Of British Cold-Rolled Steel To The Average Constructed Value For Cold-Rolled Steel Produced By Tata

Petitioners compared the weighted-average Customs Value for U.S. imports of British-produced carbon and alloy, unpainted, uncoated, non-electrical, not tool steel cold-rolled steel during the POI, as adjusted to reflect an average ex-factory price, to the calculated average constructed value for cold-rolled steel products manufactured by Tata as described above. The constructed value calculation is contained in **Exhibit XIV-3.** The calculation of the resulting 47.64 percent dumping margin is contained in **Exhibit XIV-11.**

VI. MATERIAL INJURY AND THREAT OF MATERIAL INJURY TO THE DOMESTIC INDUSTRY

Petitioners allege that imports of cold-rolled steel from the United Kingdom sold at less than fair value are a cause of material injury and threaten to cause material injury to the domestic industry. The factual information in support of this allegation is provided to the Department and the Commission in Volume I of this petition.

VII. CONCLUSION AND REQUEST FOR INVESTIGATION

As demonstrated above, British producers and exporters are selling cold-rolled steel for less than fair value in the United States. Accordingly, Petitioners request that the Department initiate an antidumping duty investigation on cold-rolled steel from the United Kingdom. Petitioners also ask that pursuant to section 505(a) of the Trade Preferences Extension Act of 2015 (PL 114-27), the Department should request Cost Of Production and Constructed Value information as part of its initial questionnaires to the respondents.