

for Hynix only long-term uncreditworthy benchmarks and discount rates for 2000 through June 30, 2002. According to 19 CFR 351.505(a)(3)(iii), in order to calculate these rates, the Department must specify values for four variables: (1) The probability of default by an uncreditworthy company; (2) the probability of default by a creditworthy company; (3) the long-term interest rate for creditworthy borrowers; and (4) the term of the debt. For the probability of default by an uncreditworthy company, we have used the average cumulative default rates reported for the Caa-to C-rated category of companies as published in Moody's Investors Service, "Historical Default Rates of Corporate Bond Issuers, 1920-1997" (February 1998). For the probability of default by a creditworthy company, we used the cumulative default rates for investment grade bonds as published in Moody's Investor Service, "Statistical Tables of Default Rates and Recovery Rates" (February 1998). For the long-term interest rate that would be paid by a creditworthy company, we are using (1) the national average of the three-year ROK won corporate bond rate as published by the BOK for won-denominated foreign currency loans and for the discount rate, and (2) the IMF's *International Financial Statistics Yearbook* for foreign-currency denominated long-term loans. For the term of the debt, we used 5 years because all of the non-recurring subsidies examined were allocated over a 5-year period, as discussed in the "Allocation Period" section, above.

Benchmarks for Short-Term Loans

As discussed below in the "Direction of Credit and Other Financial Assistance" section, we have found that the GOK directed credit for all loans to Hynix during the POI. Thus, we cannot rely on Hynix' company-specific commercial won-or foreign currency-denominated loans outstanding during the POI as our benchmark. Instead, for those programs requiring the application of a short-term, fixed, won-or foreign currency-denominated interest rate benchmark, we used the money market rates as reported in the IMF's *International Financial Statistics* in accordance with 19 CFR 351.505(a)(3)(ii).

Equityworthiness

Section 771(5)(E)(i) of the Act and 19 CFR 351.507 state that, in the case of a government-provided equity infusion, a benefit is conferred if an equity investment decision is inconsistent with the usual investment practice of private

investors. According to 19 CFR 351.507, the first step in determining whether an equity investment decision is inconsistent with the usual investment practice of private investors is examining whether, at the time of the infusion, there was a market price for similar, newly-issued equity. If so, the Department will consider an equity infusion to be inconsistent with the usual investment practice of private investors if the price paid by the government for newly-issued shares is greater than the price paid by private investors for the same, or similar, newly-issued shares.

If actual private investor prices are not available, then, pursuant to 19 CFR 351.507(a)(3)(i), the Department will determine whether the firm funded by the government-provided infusion was equityworthy or unequityworthy at the time of the equity infusion. In making the equityworthiness determination, pursuant to 19 CFR 351.507(a)(4), the Department will normally determine that a firm is equityworthy if, from the perspective of a reasonable private investor examining the firm at the time the government-provided equity infusion was made, the firm showed an ability to generate a reasonable rate of return within a reasonable time. To do so, the Department normally examines the following factors: (1) Objective analyses of the future financial prospects of the recipient firm; (2) current and past indicators of the firm's financial health; (3) rates of return on equity in the three years prior to the government equity infusion; and (4) equity investment in the firm by private investors.

Section 351.507(a)(4)(ii) of the Department's regulations further stipulates that the Department will "normally require from the respondents the information and analysis completed prior to the infusion, upon which the government based its decision to provide the equity infusion." Absent an analysis containing information typically examined by potential private investors considering an equity investment, the Department will normally determine that the equity infusion provides a countervailable benefit. This is because, before making a significant equity infusion, it is the usual investment practice of private investors to evaluate the potential risk versus the expected return, using the most objective criteria and information available to the investor.

The equityworthiness analysis relating to Hynix' debt-to-equity conversions as part of the Hynix October 2001 Restructuring program is

located in the "Analysis of Programs" section, below.

Creditworthiness

The examination of creditworthiness is an attempt to determine if the company in question could obtain long-term financing from conventional commercial sources. See 19 CFR 351.505(a)(4). According to 19 CFR 351.505(a)(4)(i), the Department will generally consider a firm to be uncreditworthy if, based on information available at the time of the government-provided loan, the firm could not have obtained long-term loans from conventional commercial sources. In making this determination, according to 19 CFR 351.505(a)(4)(i), the Department normally examines the following four types of information: (1) The receipt by the firm of comparable commercial long-term loans; (2) present and past indicators of the firm's financial health; (3) present and past indicators of the firm's ability to meet its costs and fixed financial obligations with its cash flow; and (4) evidence of the firm's future financial position.

With respect to item number one, above, pursuant to 19 CFR 351.505(a)(4)(ii), in the case of firms not owned by the government, the receipt by the firm of comparable long-term commercial loans, unaccompanied by a government-provided guarantee (either explicit or implicit), will normally constitute dispositive evidence that the firm is not uncreditworthy. However, according to the *Preamble* to the Department's regulations, in situations, for instance, where a company has taken out a single commercial bank loan for a relatively small amount, where a loan has unusual aspects, or where we consider a commercial loan to be covered by an implicit government guarantee, we may not view the commercial loan(s) in question to be dispositive of a firm's creditworthiness. (See *Countervailing Duties; Final Rule*, 63 FR 65348, 65367 (November 28, 1998) ("Preamble").)

In the *Initiation Notice*, we indicated that we would investigate Hynix' creditworthiness in 2000 through 2002. As discussed in the March 31, 2003 memorandum entitled "Creditworthiness" ("Creditworthiness Memo") (which is on file in the Department's CRU), we have found Hynix to be uncreditworthy in 2000 through June 2002. Therefore, we have used an uncreditworthy benchmark rate in calculating the benefit from loans received during this time period, and have also used an uncreditworthy discount rate in calculating any non-