

during the POI from the long-term loans and bonds.

- For short-term loans, we calculated the benefit using the methodology specified in 19 CFR 351.505(c)(1) and (2). We summed these benefits to determine the total benefit during the POI from these short-term loans.

We treated the D/A financing as short-term debt. According to record information, this form of debt involved the discounting of receivables. Because we did not have the imputed interest rate on this type of debt, we assumed, as gap-filling facts available, that the interest rate was the same as the short-term rate on Hynix' other short-term debt that was denominated in the same currency. To calculate the benefit, we compared this short-term rate to the benchmark short-term rate.

Also, regarding the usance financing and overdraft lines, the ceilings and terms for both types of credit are normally renegotiated on an annual basis. However, as part of the May and October restructuring packages, both the usance and overdraft ceilings were extended for a longer period than the normal one-year agreement. For instance, in the May package, both the usance and overdraft credit lines were extended from December 2001 to June 30, 2003. The lines were further extended in the October package to December 2004.

Because the ceilings and terms were extended beyond one year and it is unclear at this point whether these loans could be outstanding for greater than one year, we treated these loans as long-term loans on the assumption that the loans could be outstanding for greater than one year. For the period before the extensions (January through April 2001), we treated these loans as short-term loans.

#### *Debt-to-Equity Swaps*

As discussed above, as part of the October 2001 restructuring package, certain of Hynix' creditors swapped some of their outstanding debt for equity. To determine whether these equity purchases conferred a benefit on Hynix, we followed the methodology described in 19 CFR 351.507.

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 paid by private investors for similar newly-issued equity. However, pursuant to 19 CFR 351.507(a)(iii), if a private investor's purchases of newly issued shares is not significant, the Department will not use the market

price paid by the private investor for comparison purposes.

According to record information, Hynix was involved in a GDS issuance in June 2001 that was spearheaded by SSB. According to Hynix, the GDS issuance was oversubscribed by 1.5 times, which is a testament to its success. The GDSs were priced at twelve USD each and were equivalent to five shares of Hynix common stock.

In April 2001, prior to the GDS issuance, SSB issued a report on Hynix stating that it expected DRAMS prices to stabilize at USD 2.40 in the second quarter of 2001 and begin to rebound in the third quarter of 2001. In addition, SSB touted, "Hynix should offer tremendous potential upside to new and existing equity holders as the market improves this year." However, shortly thereafter, SSB's positive forecasts proved to be the exact opposite of what happened to Hynix and the worldwide DRAMS market.

By July 2001, DRAMS prices had fallen 75 percent from their July 2000 levels, reaching USD 1.10. Morgan Stanley Dean Witter ("MSDW") stated in a July 2001 equity report on Hynix, "{i}n view of the weakness in DRAMS fundamentals, the company's loss of competitiveness in the DRAMS business by not investing effectively, and its huge debt, which will likely continue to impair shareholders' value, we see no reason to be positive on the stock." MSDW slashed its earnings per share projections for Hynix by 51 percent for 2001, and 604 percent for 2002, based on this assessment.

Echoing MSDW's concerns, CSFB, in July 2001, increased its forecast of Hynix' net losses from won 2.5 trillion to won 3.9 trillion for 2001, and from won 1.7 trillion to won 2.4 trillion for 2002. In August 2001, despite the worsening of the DRAMS market and Hynix' financial state, SSB continued to see Hynix in a positive light. SSB, however, revised its 2001 revenue estimates for Hynix to won 4.3 trillion, down from Hynix' own revenue estimates of won 8.7 trillion made in April 2001.

By September of 2001, investors worldwide voiced their pessimism towards the DRAMS market in the stock exchanges. According to Dow Jones International, by September 2001, Hynix' GDSs had lost 72 percent of their issuance value, a loss of USD 900 million to investors. By October of 2001, the DRAMS market had changed dramatically from January, and even June, 2001. According to the *Wall Street Journal*, DRAMS prices were below cost industry-wide. In an October 8, 2001, article, the *Wall Street Journal* stated,

"{a}lthough chip makers worldwide are taking a loss with each chip they sell, Hynix, according to industry analysts, is in the worst financial shape. In early September, Hynix' future looked shaky. Now, as the global economic outlook gets grimmer, {Hynix'} looks worse."

Because of the extreme differences in the condition of the global DRAMS market as a whole, and Hynix' financial state at the time of the two equity infusions, we do not believe that the GDS issuance in June 2001 supports a conclusion that the October 2001 equity purchase (*i.e.*, debt-to-equity conversion) was consistent with the usual investment practices of private investors (*see* section 771 (5)(E)(i) of the Act). Clearly, the earlier, rosy expectations for a rebound in DRAM demand and prices, which were necessary for Hynix to improve its position, were not borne out. Therefore, we have not considered the GDS issuance in our analysis of the usual investment practices of private investors. Nor have we used the prices paid for the GDS as a measure of what a private investor would pay for Hynix' stock in October 2001.

Citibank was one of Hynix' creditors that opted to swap debt for equity in the October 2001 debt restructuring. As discussed above, we have preliminarily determined that Citibank's participation in the Hynix restructuring was not directed by the GOK. Therefore, we must consider whether Citibank's decision to swap debt for equity demonstrates that the other creditors' decision to swap their debt for equity was consistent with the private investor standard in section 771 (5)(E)(i) of the Act.

Pursuant to 19 CFR 351.507(a)(2)(3), if a private investor's purchases of newly issued shares are not significant, the Department will not use the market price paid by the private investor for comparison purposes. Although we cannot reveal the actual portion of the equity purchase accounted for by Citibank because it is proprietary, we preliminarily determine that Citibank's purchase was insignificant.

In discussing the requirement in 19 CFR 351.507(a)(2)(3), "the amount of shares purchased by a private investor must be significant in order to provide an appropriate benchmark," the *Preamble* refers to *Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Italy*, 60 FR 31992, 31994 (June 19, 1995) ("*Pipe from Italy*"). In *Pipe from Italy*, the Government of Italy ("GOI"), and numerous private investors participated in the same equity issuance. The GOI purchased 81.6