

percent of the shares, while private investors purchased the remaining 18.4 percent, at the same price. The Department, in *Pipe from Italy*, considered the private investors' participation in the equity issuance significant and, therefore, did not find the GOI's equity infusion inconsistent with the usual investment practice of private investors. The portion of equity obtained by Citibank in Hynix' October restructuring was less than the private investors' participation in *Pipe from Italy*.

Because we did not have actual private investor prices to use as a comparison to the price paid by Hynix' other creditors, we examined other indicators of Hynix' equityworthiness, pursuant to 19 CFR 351.507(a)(4). From 1997 through 2001, Hynix reported losses in every year except 1999. In 2000, Hynix' net income was negative 28 percent and in 2001, its net income was negative 127 percent. Based on Hynix' financial statements, its return on equity was negative in 1998 (negative 6 percent), 1999 (negative 3 percent), 2000 (negative 40 percent), and 2001 (negative 97 percent). MSDW estimated Hynix' return on equity for 2002 at negative 76 percent. Additionally, for the years 1997 through 2001, Hynix' debt-to-equity ratios ranged from 688 percent in 1997 to 129 percent in 2001. These figures clearly demonstrate Hynix' poor condition throughout the late 1990s and through 2001.

Based on these indicators, we preliminarily determine that Hynix was unequityworthy at the time of the October 2001 debt-to-equity swap. In accordance with 19 CFR 351.507(a)(6), we have treated the amount of equity purchased by Hynix' creditors, other than Citibank, as a grant.

As discussed above, Hynix' October restructuring package included the conversion of won 2.99 trillion in convertible bonds, and secured and unsecured loans into new convertible bonds which carried an obligation to convert the bonds into equity. These bonds were issued on December 6, 2001. Because the new convertible bonds carried a conversion obligation, Hynix recorded the debt-to-equity swap as a capital adjustment in its 2001 financial statements. Therefore, we have treated the benefit as having been provided to Hynix in 2001.

In accordance with 19 CFR 351.507(c), we allocated the benefit of the debt-to-equity conversion over the AUL using the uncreditworthy discount rate as described in the "Subsidies Valuation Information" section, above.

Debt Forgiveness

Under 19 CFR 351.508(c), the benefit conferred by a debt forgiveness is the amount of the debt forgiven. To calculate the benefit to Hynix received during the POI from the October 2001 debt forgiveness, we allocated the entire amount of debt forgiven over the AUL using an uncreditworthy discount rate.

KDB "Fast Track" Debenture Program

In the aftermath of the 1997 financial crisis, many ROK companies had to borrow heavily to service their USD-denominated debts, which soared as the value of the won plummeted against the USD. Many companies did so through corporate bond issues, most of which were set to mature in late 2000 and 2001. However, when it came time for these bonds to mature, difficulties in the financial market, including unwillingness by investors to invest in the bond market due to heightened risk, especially in companies with poor credit ratings, made it difficult for many companies to refinance or service their maturing bonds. Moreover, many financial institutions could not extend further financing to companies because of loan exposure limits put in place following the financial crisis.

Due to this situation, many ROK companies, especially those with below-investment grade bond ratings, were left with serious liquidity problems. Furthermore, the won 65 trillion in corporate bonds coming due in 2001 threatened to overwhelm the capital markets. Therefore, the GOK instituted several programs to try to address this situation. In June 2000, the GOK established the Collateralized Bond Obligation ("CBO") and Collateralized Loan Obligation ("CLO") programs in order to support the refinancing of corporate bonds. Through these programs, the GOK purchased debentures and loans from ROK companies, repackaged them into portfolios that included many bonds from different companies, and sold securities backed by those bonds and loans to investors with a partial guarantee from the Korea Credit Guarantee Fund ("KCGF"). No more than 10 percent of the debt of any one company could be placed into a single bundle of bonds or loans. According to the GOK, any company with maturing bonds was eligible to participate in the CBO and CLO programs.

Because many companies had much greater debt than could be handled by each CBO/CLO portfolio due to the 10 percent exposure limit, the GOK created the KDB Fast Track or Debenture Program to address this problem. Under

the Fast Track program, which was administered by the KDB, companies selected to participate in this program first had to redeem 20 percent of their bonds that were maturing in 2001; the remaining 80 percent of the maturing bonds were purchased by the KDB, and were subsequently replaced with new bonds issued by the participating companies. Of the bonds purchased by the KDB that were replaced by new issues, 10 percent of the new bonds issued were kept by the KDB, 20 percent of each new issue was purchased by the company's creditors (a blanket waiver was issued by the GOK in order to allow the creditors to surpass their loan exposure limits), and the remaining 70 percent of each new issue was bundled with other bonds and sold as CBOs or CLOs (which were partially guaranteed by the KCGF). As part of the agreement that had to be signed by the participating companies, each company was required to purchase a certain percentage of its subordinated bonds bundled with other bonds in the CBOs and CLOs (three percent in the case of a CBO, and five percent for a CLO). The program ceased to operate at the end of 2001.

According to the GOK, in order to participate in the Fast Track program, companies had to be nominated by their Creditors' Councils. Companies eligible to participate in this program, as established in Article 8 of the Creditor Financial Institutions and Corporate Credit Guarantee Fund Council Agreement to Facilitate Bond Offerings, are those that (1) are experiencing temporary liquidity problems due to a large-scale maturation of corporate bonds but have the ability to redeem at least 20 percent of those bonds; (2) are nominated by their Creditors' Council; and (3) that are not distressed companies that are undergoing corporate reorganization or workout programs. According to record evidence, only six companies participated in this program, four of which were current or former Hyundai affiliates.

Hynix was selected to participate in the Fast Track program in January 2001. According to Hynix, won 1.208 trillion of its bonds were refinanced through this program. Of this total, the KDB purchased won 120.8 billion (or 10 percent) of the maturing bonds, the creditor banks purchased won 241.6 billion (or 20 percent) of the maturing bonds, and the CBO/CLO funds purchased 70 percent of the remaining new issues, won 845.6 billion. Upon incorporation into the CBO and CLO funds, Hynix then repurchased back the specified proportion of the subordinate bonds through the CBOs and CLOs.