

under this program, the Department determined that a financial contribution was provided as described in section 771(5)(D)(ii) of the Act, with a benefit to the recipients in the amount of the tax savings pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a)(1). Therefore, the Department determined that this program was countervailable. See *CTL Plate*, 64 FR 73182.

In *Cold-Rolled Steel*, the Department found that changes had been made in the manner in which at least some of these investment tax credits are determined. See *Cold-Rolled Steel*, 67 FR 62102, and the accompanying September 18, 2002 Decision Memorandum at page 12, Section I.F. Pursuant to amendments made to the TERCL on April 10, 1998, the distinction between investments in domestic and imported goods was eliminated for certain programs, including the Tax Credit for Investment in Facilities for Productivity Enhancement (Article 24 of RSTA) and the Tax Credit for Investment in Specific Facilities (Article 25 of RSTA). Accordingly, the Department determined that tax credits received under these programs for investments made after April 10, 1998 are no longer countervailable. However, companies can still carry forward and use the tax credits for investments earned under the countervailable aspects of the TERCL program before the April 10, 1998 amendment to the tax law. Consistent with *Cold-Rolled Steel*, the Department continues to find countervailable the use of investment tax credits earned on investments made before April 10, 1998.

The specific Articles under the TERCL and the RSTA that we are investigating in the instant investigation are discussed separately below:

Temporary Tax Credit for Investment (Article 26 of RSTA)

The tax credit program under Article 26 of RSTA was enacted to promote investment in facilities during periods of economic slowdown. It provides a tax credit equal to ten percent of the investments made by companies in certain eligible industries specified in the implementing Presidential Decree, which includes the computer industry. Article 26 of RSTA was not among the programs found in *Cold-Rolled Steel* to have eliminated the import substitution advantage for eligible investments made after April 10, 1998.

Hynix reported no taxable income for the POI and, therefore, claimed no credits and received no benefits under this tax program. SEC claimed credits and received tax benefits under this program in its 2001 tax return for tax

year 2000, but not in its 2002 tax return for tax year 2001.

As discussed above, we found in *CTL Plate* that tax programs offered as part of the RSTA and the TERCL bestowed a financial contribution in the form of foregone revenue, as described in section 771(5)(D)(ii) of the Act, with a benefit to the recipients in the amount of the tax savings pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a)(1). Moreover, as discussed above, we determined in *CTL Plate* and *Cold-Rolled Steel* that tax benefits offered through the RSTA and the TERCL are *de jure* specific pursuant to section 771(5A)(C) of the Act, to the extent that they are contingent upon the use of domestic goods over imported goods. As noted above, this Article of the RSTA was not one of the programs for which the distinction between domestic and foreign-produced merchandise was eliminated. Therefore, because ROK companies received a higher tax credit for investments made in domestically-produced facilities, we preliminarily find that this program is specific pursuant to section 771 (5A)(C) of the Act. Thus, we preliminarily determine that this program conferred countervailable subsidies upon SEC during the POI.

In calculating the benefit for SEC, consistent with 19 CFR 351.524(c)(1), we treated the tax savings as a recurring benefit and divided the tax savings received by SEC during the POI by SEC's total sales during the POI. On this basis, we preliminarily determine that a countervailable benefit of 0.15 percent *ad valorem* exists for SEC under this program.

C. Electricity Discounts Under the Requested Load Adjustment ("RLA") Program

The GOK introduced an electricity discount under the RLA program in 1990 to address emergencies in the Korea Electric Power Company's ("KEPCO") ability to supply electricity. Under this program, customers with a contract demand of 5000 kilowatts or more who can curtail their maximum demand by 20 percent or suppress their maximum demand by 3000 kilowatts or more are eligible to enter into a RLA contract with KEPCO. Customers who choose to participate in this program must reduce their load upon KEPCO's request, or pay a surcharge to KEPCO.

Customers can apply for this program between May 1 and May 15 of each year. If KEPCO finds the application in order, KEPCO and the customer enter into a contract with respect to the RLA discount. The RLA discount is provided based upon a contract for two months,

normally July and August. Under this program, a basic discount of 440 won per kilowatt is granted between July 1 and August 31, regardless of whether KEPCO makes a request for a customer to reduce its load.

During the POI, SEC received an RLA discount for July and August 2001. Hynix did not participate in the program during the POI.

The Department has previously found this program to be countervailable. See *Sheet and Strip*, 64 FR 30636, and *Cold-Rolled Steel*, 67 FR 62102 and accompanying September 23, 2002 Decision Memorandum at page 18, Section I.M. Specifically, we found this program specific under section 771(5A)(D)(iii)(I) of the Act because the discounts were distributed to a limited number of customers. A financial contribution is provided within the meaning of section 771(5)(D)(ii) of the Act in the form of revenue foregone by the government, with the benefit being a discount on the company's monthly electricity charge. No party has provided any new information to warrant reconsideration of this determination. Therefore, we preliminarily determine this program to be countervailable pursuant to section 771(5) of the Act.

Consistent with *Sheet and Strip* and *Cold-Rolled Steel*, because the electricity discounts provide recurring benefits, we have expensed the benefit from this program in the year of receipt. To measure the benefit from this program, we summed the electricity discounts which SEC received from KEPCO under the RLA program during the POI. We then divided that amount by SEC's total sales value for the POI. On this basis, we determine a net countervailable subsidy of 0.00 percent *ad valorem* for SEC.

D. Operation G-7/HAN Program

Under the Framework Act on Science and Technology, the GOK made direct financial contributions in the form of interest-free loans to respondent companies under the Operation G-7/HAN Program. These loans were provided as matching funds in support of the Next Generation Semiconductor Technology Project from 1993 through 1997 through the Ministry of Science and Technology ("MOST"), the Ministry of Commerce, Industry, and Energy, and other administrative authorities.

Both Hynix and SEC report that they had loans that were outstanding during the POI under this program.

We preliminarily determine that this program is specific within the meaning of section 771(5A)(D)(i) of the Act because it is limited to the