

semiconductor industry. In addition, we preliminarily determine that a financial contribution was provided under section 771(5)(D)(i) of the Act in the form of direct loans from the GOK. Finally, pursuant to section 771(5)(E) of the Act, we preliminarily determine that the benefit conferred by this program is the difference between the amount the companies paid on the loans and the amount the companies would pay on comparable commercial loans.

Consistent with section 771(5)(D)(i) of the Act and 19 CFR 351.505(c)(2), we calculated the benefit from these loans by comparing the interest actually paid on the loans during the POI to what the companies should have paid during the POI. We used as our benchmarks the rates described in the "Discount Rates and Benchmarks for Loans" section, above. We then divided the total benefit from the loans for each company by the company's total sales in the POI to calculate the total countervailable subsidy. On this basis, we preliminarily determine that countervailable benefits of 0.14 percent *ad valorem* and 0.01 percent *ad valorem* exist for Hynix and SEC, respectively.

E. 21st Century Frontier R&D Program

The 21st Century Frontier R&D program is a GOK program established in 2000 that provides loans to semiconductor manufacturers in the form of matching funds for research and development to overcome the technological limits of next-generation semiconductor technology, among other goals. The GOK made direct financial contributions under this program in the form of interest-free loans through the MOST and other administrative authorities.

SEC claims that it did not receive any loans under this program. Hynix reports that it had loans 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 semiconductor industry. In addition, we preliminarily determine that a financial contribution was provided under section 771(5)(D)(i) of the Act in the form of direct loans from the GOK. Finally, pursuant to section 771(5)(E) of the Act, we preliminarily determine that the benefit conferred by this program is the difference between the amount the companies paid on the loan and the amount the companies would pay on comparable commercial loans.

Consistent with section 771(5)(D)(i) of the Act, we calculated the benefit from these loans by comparing the interest actually paid on the loans during the

POI to what the companies should have paid during the POI. We used as our benchmarks the benchmarks discussed in the "Discount Rates and Benchmarks for Loans" section above. We then divided the total benefit from the loans for each company by the company's total sales in the POI to calculate the total countervailable subsidy. On this basis, we preliminarily determine that a countervailable benefit of 0.00 percent *ad valorem* exists for Hynix.

II. Programs Preliminarily Determined to Be Not Countervailable

Tax Programs Under the TERCL and/or the RSTA

1. Reserve for Research and Human Resources Development (formerly Technological Development Reserve) (Article 9 of RSTA/formerly, Article 8 of TERCL)

Article 8 of the TERCL permits an ROK company operating in manufacturing or mining, or in a business prescribed by a Presidential Decree, to set aside funds into a reserve account to cover a company's planned expenditure for the "development or innovation" of technology. These funds are reported as a loss in the current taxable year, thus reducing the company's tax liability. Article 8 specifies that capital goods producers and technology-intensive companies can establish a reserve of up to five percent of revenue, while companies in other industries are limited to a three percent reserve. After a two-year grace period, funds set aside for the reserve must be allocated as income over a three-year period.

Hynix established a fund in 1996, and evenly distributed the fund as taxable income in years 1999 through 2001. SEC created a reserve under this program in 1999; it did not allocate any portion of this fund as taxable income through the end of the POI.

In *CTL Plate*, 64 FR 73181, we determined that this program was countervailable for companies that could claim a five percent tax reserve, but not for companies that could claim a three percent tax reserve. Both Hynix and SEC claim that they are only eligible for the three percent tax reserve. Therefore, we preliminarily determine that this program is not countervailable with respect to Hynix and SEC because neither was eligible for the countervailable reserve.

2. Tax Credit for Research and Human Resources Development Expenses (Article 10 of RSTA/Article 9 of TERCL)

Article 10 of the RSTA replaced Article 9 of the TERCL at the beginning

of 2001. It provides a tax credit for certain qualifying expenses related to research and human resources development ("R&HRD"), deductible from individual or corporate income tax. Under Article 9 of the TERCL, the credit was limited to certain mining, manufacturing, or other businesses (including computer companies), as specified by the implementing Presidential Decree. Under Article 10 of the RSTA, however, eligibility was extended to all domestic businesses, except for those in real estate or consumptive services. There are two methods for calculating the credit, under which the amount is equal to either (1) 50 percent of the amount by which the R&HRD expense incurred for the relevant tax year exceeds the yearly average of R&HRD expenses incurred over the four years preceding the tax year; or (2) 15 percent of R&HRD expenses for the tax year. Persons other than small and medium enterprises, however (e.g., large corporations) may claim credits only pursuant to the first method.

Hynix claims it was not eligible for this program during the POI and, hence, claimed no tax credits and received no benefits under the program during the POI. SEC claimed credits and received tax benefits under this program in its tax returns for 2000 and 2001, which were applicable to its tax liabilities during the POI.

Based on the record evidence, we find no indication that this program is specific on any basis under section 771(5A). Therefore, we preliminarily determine that benefits received under this program are not countervailable.

3. Tax Credit for Investment in Facilities for Productivity Enhancement (Article 24 of RSTA/Article 25 of TERCL)

Article 24 of the RSTA, which is the Tax Credit for Investment in Facilities for Productivity Enhancement, provides tax credits for investments in specified capital equipment. We have previously determined that tax credits received pursuant to these investment programs for investments made after April 10, 1998 are not countervailable because a distinction between investment in domestic versus foreign-made goods was eliminated. See *Final Results and Partial Rescission of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip From the Republic of Korea*, 68 FR 13267 (March 19, 2003) and accompanying March 10, 2003 Decision Memorandum at page 11, Section III.A.8.

Both SEC and Hynix claimed exemptions under Article 24 of the RSTA. All of SEC's tax credits resulted