

own internal guidelines when evaluating this purchase, as well as several instances of items for which POSCO overpaid. See August 7, 2003, Verification Report for BNG in the Countervailing Duty Administrative Review of Stainless Steel Sheet and Strip from the Republic of Korea (BNG Verification Report) at page 3 and Exhibit B-9. What new information we have received merely serves to confirm our earlier finding. In the opinion of the bankers with whom we spoke, the process in which Sammi and POSCO participated for the sale of Sammi's bar and pipe division was dissimilar to the typical sale approach in terms of timing, number of bidders, and internal approval. See August 7, 2003, Meeting with Private Bankers in the Countervailing Duty Administrative Review of Stainless Steel Sheet and Strip from the Republic of Korea, at page 2. Based on record evidence, we find that POSCO purchased this facility for more than adequate remuneration. Therefore, we preliminarily find that, to the extent that this purchase was made for more than adequate remuneration, it conferred a countervailable benefit to Sammi within the meaning of section 771(5)(E)(iv).

We used record evidence to calculate the amount POSCO overpaid for this facility. The BAI report cites several items which POSCO should have known were worth less than the value attached to them by valuation studies and includes the BAI's valuation of these items. See BNG Verification Report, Exhibit B-9. These items include overpayment for technologies which POSCO already possessed, not accounting correctly for certain tax breaks, and the purchase of land not required by the purchase agreement. We are using the sum of these amounts as the benefit for this program. The Department invites parties to comment on the benefit calculation for this program.

Therefore, in accordance with section 771(5)(A) of the Act, we determine that this program conferred a countervailable benefit to Sammi. On this basis, we preliminarily determine a net countervailable subsidy of 0.28 percent *ad valorem* for INI/BNG.

II. Programs Preliminarily Determined To Be Not Used

A. *Investment Tax Credits Under RSTA Articles 11, 30, and 94 and TERCL Articles 24, 27, 71.*

B. *Loans From the National Agricultural Cooperation Federation.*

C. *Tax Incentives for Highly-Advanced Technology Businesses under*

the Foreign Investment and Foreign Capital Inducement Act.

D. *Reserve for Investment under Article 43-5 of TERCL.*

E. *Export Insurance Rates Provided by the Korean Export Insurance Corporation.*

F. *Special Depreciation of Assets on Foreign Exchange Earnings.*

G. *Excessive Duty Drawback.*

H. *Short-Term Export Financing.*

I. *Export Industry Facility Loans.*

J. *Research and Development.*

K. *Local Tax Exemption on Land Outside of Metropolitan Area.*

III. Programs Preliminarily Determined To Be Not Countervailable

A. POSCO's Provision of Steel Inputs for Less Than Adequate Remuneration

In *2000 Sheet and Strip*, we found that POSCO's provision of steel inputs for less than adequate remuneration was countervailable on the basis that the GOK, through POSCO, provided a financial contribution. However, we noted at Comments 9 and 10 of the *2000 Sheet and Strip* Decision Memo that we would analyze POSCO's privatization in the course of the instant administrative review.

In the instant review, we preliminarily find that the evidence relied upon in the previous determinations has changed, and, therefore, the Department's earlier finding is no longer applicable. Specifically, in previous determinations, the Department concluded that the GOK controlled POSCO on the basis of a number of factors, including: (1) The GOK was the largest shareholder, (2) the GOK enacted a law that restricted individual shareholders from exercising voting rights in excess of three percent of the company's common share and the inclusion of a similar restriction in POSCO's Articles of Incorporation, (3) POSCO was designated as a "public company," (4) POSCO's chairman and half of POSCO's outside directors were appointed by the GOK, and (5) POSCO's chairman and several of POSCO's appointed directors were former senior government officials.

With respect to the first factor, during the POR, the GOK no longer was the largest owner of POSCO's shares. During 2001, the largest GOK-owned holder of POSCO's shares was the Industrial Bank of Korea (IBK), the only entity with GOK ownership that held more than one percent of POSCO's shares during this period. The IBK held 3.12 percent of POSCO's common shares as of December 31, 2001. The single largest shareholder of POSCO's shares at the

end of 2001 was POSTECH, with 3.14 percent. POSTECH is a technical university owned by POSCO. With respect to the second and third factors, POSCO's designation as a "public company" was removed on September 26, 2000, which also removed the restriction on an individual shareholder's voting rights. However, the latter became effective during the POR on March 16, 2001, when the clause included in POSCO's Articles of Incorporation restricting individual ownership was officially removed at the General Shareholders Meeting.

Regarding the fourth and fifth factors, in March 1999, POSCO revised its Articles of Incorporation, establishing new procedures for selecting members of the Board of Directors (BOD), assuring the independence and transparency of the selection process. During the General Meeting of Shareholders, held on March 17, 2000, two outside directors who were former government employees resigned. During the POR, none of the standing directors on POSCO's BOD were former government employees or officials, while two of eight outside directors were former government employees or officials. Moreover, while POSCO's current chairman is the same individual that was appointed by the President of Korea, he was subsequently reappointed by the shareholders in March 2001.

In light of these changes, we preliminarily determine that the GOK did not control POSCO during the POR. As such, we also preliminarily find that absent GOK control over POSCO, there is no longer a government financial contribution as defined by section 771(D)(iii) of the act, and, therefore, that this program is no longer countervailable.

B. *Electricity Discounts Under the Voluntary Electric Power Savings Adjustment Program*

We examined at verification the voluntary electric power savings adjustment (VEPS) program, Article 107-2 of the Regulation on Optional Electricity Supply. This program is associated with the VRA program previously examined by the Department and found not countervailable. See *Sheet and Strip* at 30647. The goal of the VEPS program is to reduce customers' electricity usage during the summer months, when demand is normally high. Under this program, KEPCO gives discount incentives to general, industrial, and educational customers with a contract maximum demand per month (MDM) of 1000 kilowatts (kW) or more who reduce their electricity usage during peak season (*i.e.*, summer).