the persons submitting the comments and will not consider them. All comments submitted in response to this notice will be a matter of public record and will be available for public inspection and copying.

The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays public comments on the BIS Freedom of Information Act (FOIA) Web site at *http://www.bis.doc.gov/foia.* This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this web site, please call BIS's Office of Administration, at (202) 482–0637, for assistance.

Dated: November 20, 2002.

James J. Jochum,

Assistant Secretary for Export Administration.

[FR Doc. 02–30011 Filed 11–26–02; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–851]

Notice of Initiation of Countervailing Duty Investigation: Dynamic Random Access Memory Semiconductors from the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

EFFECTIVE DATE: November 27, 2002.

FOR FURTHER INFORMATION CONTACT: Suresh Maniam or Ryan Langan at (202) 482–0176 or (202) 482–2613, respectively; AD/CVD Enforcement, Group I, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUMMARY: The Department of Commerce is initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of dynamic random access memory from the Republic of Korea have received countervailable subsidies.

SUPPLEMENTARY INFORMATION:

INITIATION OF INVESTIGATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the ''Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the ''Department'') regulations are references to the provisions codified at 19 CFR Part 351 (April 2002).

The Petition

On November 1, 2002, the Department received a petition filed in proper form by Micron Technology, Inc. (the ''petitioner''). The Department received supplemental information to support the petition on November 13 and 19, 2002.

In accordance with section 702(b)(1) of the Act, the petitioner alleges that manufacturers, producers, or exporters of the subject merchandise from the Republic of Korea (''Korea'') receive countervailable subsidies within the meaning of section 701 of the Act, and that imports of the subject merchandise are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support. See ''Determination of Industry Support for the Petition'' section, below.

Scope of Investigation

The products covered by this investigation are Dynamic Random Access Memory semiconductors (''DRAMs'') from Korea, whether assembled or unassembled. Assembled DRAMs include all package types. Unassembled DRAMs include processed wafers, uncut die, and cut die. Processed wafers fabricated in Korea, but assembled into finished semiconductors outside Korea are also included in the scope. Processed wafers fabricated outside Korea and assembled into finished semiconductors in Korea are not included in the scope.

The scope of this investigation additionally includes memory modules containing DRAMs from Korea. A memory module is a collection of DRAMs, the sole function of which is memory. Memory modules include single in-line processing modules (''SIPs''), single in-line memory modules (''SIMMs''), dual in-line memory modules (''DIMMs''), small outline dual in-line memory modules (''SODIMMs''), Rambus in-line memory modules (''RIMMs''), and memory cards or other collections of DRAMs, whether unmounted or mounted on a circuit board. Modules that contain other parts that are needed to support the function of memory are covered. Only those modules that contain additional items which alter the function of the module to something other than memory, such as video graphics adapter (''VGA'') boards and cards, are not included in the scope. This investigation also covers future DRAM module types.

The scope of this investigation additionally includes, but is not limited to, video random access memory (''VRAM''), and synchronous graphics RAM (''SGRAM''), as well as various types of DRAMs, including fast page-mode (''FPM''), extended data-out (''EDO''), burst extended data-out (''BEDO''), synchronous dynamic RAM (''SDRAM''), Rambus DRAM (''RDRAM'') and Double Data Rate DRAM, (''DDR SDRAM''). The scope also includes any future density, packaging, or assembling of DRAMs. Also included in the scope of this investigation are removable memory modules placed on motherboards, with or without a central processing unit (''CPU''), unless the importer of the motherboards certifies with the Customs Service that neither it, nor a party related to it or under contract to it, will remove the modules from the motherboards after importation. The scope of this investigation does not include DRAMs or memory modules that are re-imported for repair or replacement.

The DRAMs subject to this investigation are currently classifiable under subheadings 8542.21.8005 and 8542.21.8021 through 8542.21.8029 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The memory modules containing DRAMs from Korea, described above, are currently classifiable under subheadings 8473.30.10.40 or 8473.30.10.80 of the HTSUS. Although the HTSUS subheadings are provided for convenience and Customs purposes, the Department's written description of the scope of this investigation remains dispositive.

Scope Issue

The scope language as proposed by the petitioner included ''[p]rocessed wafers fabricated outside Korea, and assembled into finished semiconductors in Korea.'' As discussed below, the Department has determined not to include this language in the scope of this investigation. In past semiconductor cases, the Department has determined that country of fabrication confers country of origin and in fact has specifically excluded wafers produced in a third country that are

assembled and packaged in Korea. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above (''DRAMs'') From Taiwan*, 64 FR 56308, 56309 (October 19, 1999) and *Final Determination of Sales at Less Than Fair Value: Dynamic Random Access Memory Semiconductors of One Megabit and Above From the Republic of Korea*, 58 FR 15467 (March 23, 1993).

The petitioner states that it considers DRAMs to originate in Korea if the DRAMs are fabricated and/or assembled in Korea, asserting that this position takes into account the country of origin rule used for U.S. Customs purposes, which is based on the country of assembly. The petitioner further asserts that the subsidies that are being provided by the Government of the Republic of Korea (''GOK'') provide a significant benefit to all facets of the semiconductor production process in Korea, including the assembly and testing phases. The petitioner notes that the past cases before the Department have been antidumping cases and asserts that the scope from earlier antidumping cases should not be imported into a countervailing duty case based on the fundamental differences between the two types of proceedings. According to the petitioner, unlike an antidumping case where the Department is concerned with unfair pricing between private parties, a countervailing duty case involves the examination of government subsidies that benefit an entire production process. The petitioner claims that any DRAM assembled in Korea must be included in the scope because all DRAMs have benefitted from the subsidies. According to the petitioner, while the limitation of scope to the country of fabrication may be reasonable in an antidumping case, such a finding in this case would address only a part of the overall DRAM production process in Korea and would permit a continuation of the material injury the law is designed to prevent.

The petitioner further argues that the increasing cost and sophistication of the assembly and testing operations in recent years separately justifies including DRAMs assembled in Korea in the scope of this investigation. In addition, the petitioner asserts that to include assembly in the scope resolves an inconsistency in the earlier semiconductor cases where the Department based the scope on country of fabrication but the International Trade Commission's definition of the domestic industry included fabricators and assemblers. Finally, the petitioner states that the Department typically defers to the petitioner when framing the scope of the merchandise being investigated.

At consultations and in its later filings, the GOK has argued that the Department should not expand the scope from prior determinations to include merchandise fabricated outside Korea but assembled and tested in Korea. The GOK contends that the expanded scope is contrary to Department practice and that the facts do not support a change in practice. The GOK asserts that the wafers are the defining component of the DRAM or memory module and that the value added for final assembly is much smaller than the wafer fabrication, accounting for less than 15 percent of the total cost of the DRAM. In support of its position, the GOK cites *Erasable Programmable Read Only Memories (EPROMs) From Japan; Final Determination of Sales at Less than Fair Value* (''*EPROMs*''), 51 FR 39680 (October 30, 1986), where the Department found that EPROM wafers and dice originated in the country of fabrication, not in the country where assembly and testing occurred. In *EPROMs*, the Department found that third country assembly and testing did not constitute a ''substantial transformation'' that changed the country of origin from the country of fabrication. Concerning the petitioner's assertion that the language in past cases is not applicable because those cases were antidumping cases, the GOK notes that the Department based its analysis in *EPROMS* on its interpretation of the ''class or kind of foreign merchandise'' as defined in the antidumping statute, and that the subsidy statute uses almost the identical language.

Concerning the petitioner's argument regarding Customs' rulings, the GOK points out that the Department has not felt bound by Customs' country of origin rulings because these rulings serve different purposes.

We have considered this issue carefully and, as stated in the ''scope of investigation'' section above, have determined that processed wafers fabricated outside Korea and assembled into finished semiconductors in Korea are not included in the scope. The principal reason for this determination is that in numerous past proceedings on DRAMs and similar products such as EPROMs, the Department has consistently maintained that the country of origin is the country where wafer fabrication occurs. Given those precedents, we are unwilling to adopt different criteria for determining origin absent compelling information that new criteria are appropriate. The information presented by the petitioner does not meet that threshold.

First, section 701(a)(1) of the Act provides for the investigation of whether a countervailable subsidy is being provided to ''a class or kind of merchandise.'' A single definable class or kind of merchandise is linked inextricably to its country of origin, which is in turn determined, for purposes of both antidumping and countervailing duty proceedings, by the substantial transformation test. (*EPROMs*, *supra*, at General Comment 28.) Accordingly, the Department finds that it would not be appropriate or feasible to have a class or kind of merchandise subject to investigation that would require two different and potentially conflicting country-of-origin tests. Thus, the Department cannot accept the alternative test implicated by petitioner's proposed scope language, i.e., that the assembly and testing operations should also set country-of-origin.

The Department has independent authority to determine the scope of its investigations. See *Diversified Products Corp. v. United States*, 572 F. Supp. 883, 887 (CIT 1983). The Department's authority to make its own country of origin determinations is inherent in its independent authority to determine the scope of AD/CVD investigations. Moreover, the Department's country-of-origin determinations, which have not always been identical with Customs's country-of-origin determinations, reflect concerns specific to enforcement of the AD/CVD laws, such as the potential for the circumvention of orders. *See, e.g., EPROMS from Japan*, 51 FR 39680 (October 30, 1986); *DRAMS of 256 Kilobits and Above from Japan*, 51 FR 28396 (August 7, 1986); *Certain Cold-Rolled Carbon Steel Flat Products From Argentina*, 58 FR 37062 (July 9, 1993).

Given this authority, the Department has determined that it is appropriate to continue to base origin on wafer fabrication. While the petitioner may be correct that testing and assembly may be more costly than in the past, there does not seem to be any dispute that wafer fabrication is still the more important stage of the production process. Indeed, the petitioner contends, and we agree as in past determinations, that wafers fabricated in Korea and assembled and tested in third countries are within the scope of this proceeding. Consequently, we have not adopted the petitioner's proposed scope.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited

representatives of the GOK for consultations with respect to the petition filed. On November 12, 2002, the Department held consultations with the GOK. The points raised in the consultations are described in a memorandum to the file entitled ''CVD Consultations with Officials from the Government of the Republic of Korea,'' dated November 13, 2002. This memorandum is on file in the Department's Central Records Unit, Room B–099 of the main Department of Commerce building. The GOK filed submissions with the Department on November 18 and 19, 2002.

Determination of Industry Support for the Petition

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, when determining the degree of industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (''ITC''), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition. As discussed in the scope section of this notice, we have modified the scope from the scope presented in the petition. For purposes of calculating industry support, we have used a domestic like product definition that is consistent with our revised scope language. The petition covers DRAMs as defined in the ''Scope of the Investigation'' section, above, a single class or kind of merchandise.

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition. Finally, section 702(c)(4)(D) of the Act provides that if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the administering agency shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition as required by subparagraph (A); or (ii) determine industry support using any statistically valid sampling method to poll the industry.

The Department has determined, pursuant to section 702(c)(4)(D), that there is support for the petition as required by subparagraph (A). Specifically, the Department made the following determinations. The domestic producers or workers who support the petition established industry support representing over 50 percent of total production of the domestic like product. Therefore, the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 702(c)(4)(A)(i) are met. Furthermore, because the Department received no opposition to the petition, the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition. Thus, the requirements of section 702(c)(4)(A)(ii) are also met. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See* the Initiation Checklist dated November 21, 2002 (''*Initiation Checklist*'').

Injury Test

Because Korea is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from Korea materially injure, or threaten material injury to, an industry in the United States.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the subsidization of the imports of the subject merchandise. The petitioner contends that the industry's injured condition is evident in the declining trends in domestic prices, operating income and profitability, market share, budgeting for research and development, capital expenditures, inventory valuations,[2] production capacity,[3] as well as lost sales and revenue due to subject imports. The petitioner further alleges threat of injury due to increased import volumes, inventory levels in Korea, unused and increasing production capacity, and price depression. The petitioner asserts that because of the negative trends discussed above, several domestic producers have either ceased operations or consolidated operations with other domestic producers, and there have been no new entrants in the domestic industry. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, the financial statements of Micron and Infineon Technologies, lost sales and revenue data, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by accurate and adequate evidence, and meet the statutory requirements for initiation (*see Initiation Checklist*).

Allegations of Subsidies

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an industry that (1) alleges the elements necessary for the imposition of a duty

[1] *See Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

[2] Specifically, the petitioner alleges that the industry has recently experienced large write-downs of inventory valuation due to historically low selling prices.

[3] The petitioner states that wafer capacity has not increased over the last three years. Rather, capacity has been reduced due to industry consolidation and plant closures, and it has been retooled for production of other types of semiconductors or upgraded with new equipment to accommodate new densities, die shrinks, or address technologies.

under section 701(a), and (2) is accompanied by information reasonably available to the petitioner supporting the allegations.

Period of Investigation

The petitioner has identified numerous instances of alleged government support for Hynix Semiconductor Inc. (''Hynix'')[4] in 2001. The petitioner has argued that much of this assistance should be addressed under the Department's grant methodology because although the assistance was ostensibly in the form of loans, there were non-viable contingencies on repayment. Alternatively, the petitioner has argued that the assistance should be treated as long-term loans with special characteristics such that the benefit would be recognized at the time the funds were disbursed to Hynix in accordance with the methodology described in 19 CFR 351.505(b) and 351.505(c)(3). If the Department rejects these methodologies, then its regulations indicate that the benefit would accrue at the time that interest would be paid on a comparable commercial loan, according to the petitioner. However, based on information reasonably available to it, the petitioner has not been able to determine the terms of the allegedly subsidized assistance and, consequently, has not been able to calculate the interest that would have been paid in 2001 or whether, in fact, interest obligations even began before 2002.

To address these unique circumstances, the petitioner requests that the Department expand the period of investigation (''POI'') to include not only 2001, but also the first six months of 2002. The petitioner claims this is necessary because a POI limited to 2001 may permit the subsidies to Hynix to escape scrutiny. If the Department finds that the assistance to Hynix should be addressed under a methodology that assigns the benefits to 2001, the petitioner states that there may be no need to extend the POI.

In consultations, the GOK argued that Hynix, Samsung Electronics Company (''Samsung''), and the GOK have calendar fiscal years and, as such, the Department's standard practice is to use only the calendar year 2001 as the POI. The GOK claims that no basis for expanding the POI exists because 1) any benefits received in 2002 would be captured in a review; 2) expanding the POI would unnecessarily complicate the case; 3) completed and audited financial statements or completed and submitted tax returns would not be available, placing an unnecessary burden on the U.S. government, the GOK, and the respondents; and 4) no rationale was provided to expand the POI, nor has the petitioner cited any cases in which the Department departed from its practice of using a single calendar year POI.

Under 19 CFR 351.204(b)(2), the Department normally relies on information pertaining to the most recently completed fiscal year for the government and exporters or producers in question. That same regulation also states, however, that we may rely on information for any additional or alternative period that we conclude is appropriate. In this proceeding, because the petition was filed in November 2002, the normal POI would be 2001.

Recognizing that adoption of an 18–month period of investigation would be a departure from our normal practice, we have carefully considered the merits of the petitioner's claims and the concerns raise by the GOK. Given the lateness of the filing in 2002, we considered collecting data for two separate 12–month periods, 2001 and 2002, and then deciding which data set to use once the relevant facts were discovered through the investigation process. However, such an approach has the obvious drawback that the Department would have to select between the two periods in making its final determination of subsidies, and the period picked could have a significant effect on the outcome of the proceeding.

Instead, we have determined from the outset of this proceeding that we will use the 18–month period of investigation urged by the petitioner. We agree that the terms of various alleged subsidies are not reasonably available to the petitioner and that the methodology, including the point in time that the benefits would be deemed to have accrued, will only be known after an investigation and analysis of the parties' comments. In these circumstances, we do not believe that we should limit this investigation to the normal POI because doing so may be tantamount to telling the petitioner that it has to bring a case simply to learn that the petition should have been filed at a later time (despite that fact that allegedly injurious imports have been occurring all along). Our regulations at 19 CFR 351.204(b)(2) accord us the flexibility to address these unusual circumstances by expanding the POI.

Moreover, we do not intend to scale back the 18–month period of investigation if, as the petitioner suggests, we find it unnecessary. By setting out an 18–month POI at the outset, we avoid the situation of having parties seek to shape the period of investigation to achieve a particular outcome.

Regarding the concerns raised by the GOK, the issue is not whether the subsidies will be captured in the investigation or a possible administrative review. Instead, the petitioner has provided information available to it indicating that the subject merchandise is subsidized. The lack of perfect information, or questions about the timing of the benefits under the Department's various methodological approaches, should not preclude the petitioner from seeking meaningful relief. Second, we do not see that an expanded POI would complicate the investigation beyond the collection of additional data. Third, although completed and audited 2002 financial statements might not be initially available, the Department routinely relies on draft financial statements. Finally, although the petitioner has not cited any cases in which the Department departed from its practice of using a single calendar year as the POI, as noted above, the Department has the discretion to do so.

Initiation of Countervailing Duty Investigation

The Department has examined the countervailing duty petition on DRAMs from Korea and found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of DRAMs from Korea receive countervailable subsidies.

I. Creditworthiness and Equityworthiness

The petitioner alleges that Hynix was uncreditworthy in 2000 and 2001 and continues to be uncreditworthy in 2002. The petitioner claims that at the end of 1999, HEI was at a cash crisis point, with 495 billion Won in short-term debt and 2,502 billion Won in long-term debt, and approximately one trillion Won in interest payments due in 2000. HEI had only 808 billion Won in operating profits in 1999 so it was clear that HEI would be unable to pay off the loans and meet its interest obligations. Specifically, the petitioner claims that Hynix has not received any new lending on commercial terms since the beginning of 2001. With one exception, all loans received by Hynix in 2002 were from government agencies or creditors entrusted or directed by the

[4] Hynix was known as Hyundai Electronics Industries Co. Ltd. (''HEI'') until March 29, 2001.

government to extend credit to Hynix. The petitioner states that Hynix received one ''relatively insignificant'' loan from Citibank. However, the petitioner notes that the Department's practice is to examine the circumstances surrounding commercial bank loans that are part of financing packages that involve the government to determine whether there are any special features of the package that would lead the commercial lender to offer lower, more favorable terms than would be offered absent the government/ commercial bank package (citing to the Preamble to the *Countervailing Duties: Final Rule*, 63 FR 65348, 65363–64 (November 25, 1998). The petitioner claims that the loan from Citibank, for several reasons, could not be viewed as being comparable to the GOK's loans.

The petitioner further alleges that throughout the period 2000 and 2001, Hynix had a significant amount of debt coming due and the company would not be able to pay off this debt using its internal free cash flow. Therefore, Hynix needed help from the government. To support this, the petitioner points to comments made by investment banks in their reports during 2000 and 2001. For example, the reports stated: ''[w]e believe it would be difficult for [Hynix] to secure sufficient funds to repay its debt...;'' ''[Hynix has a] fundamental problem of excessive debt which was around 87 percent of 2001 sales;'' ''[Hynix is] not profitable and is not paying off debt at a sufficiently fast rate from internal cash flow or asset disposals;'' ''we believe Hynix's balance sheet risk remains high.'' According to the petitioner, the investment community's analyses at the time reveals that it was known that Hynix did not have the cash flow to repay debts and would not be able to obtain funding from normal commercial sources.

Since the two bailouts in 2001, the petitioner claims that Hynix's financial situation has continued to worsen, with Hynix reporting a loss of more than 410 billion Won for the first half of 2002. Meanwhile, the petitioner notes, Hynix still has 5,982 billion Won in debt, a large portion of which is coming due in the next few years. With DRAM prices at historical lows, the petitioner argues that there is no reasonable expectation, under normal commercial considerations, that Hynix's debt will ever be repaid without GOK assistance. Without GOK intervention, the petitioner claims, banks would not continue to provide new money to Hynix, at any interest rate.

The petitioner additionally examines Hynix's financial condition during the time relying on various financial indicators: total liabilities to net worth; fixed assets to net worth; current liabilities to net worth; the current ratio; and the quick ratio. According to the petitioner, the current ratio indicates that even if Hynix were to liquidate its current assets at full book value, it would be unable to pay off its current liabilities in full. Regarding the quick ratio, the petitioner notes that Hynix could cover only 8 percent of its current liabilities with current assets other than inventories. The petitioner also claims that Hynix's debt was increasing. The company's debt-to-equity ratio was 186 percent in 2000 and rose to 193 percent in 2001. Finally, the petitioner notes that for the period 1998 to 2001, Hynix had current liabilities which exceeded its net worth for three of the years. According to the petitioner, only after the bailout in 2001, did this ratio drop below one. In examining a company's creditworthiness we attempt to determine if the company in question could obtain long-term financing from conventional commercial sources. 19 CFR 351.505(a)(4). We find that the financial information submitted by the petitioner provides a reasonable basis to believe or suspect that Hynix was uncreditworthy in 2000 - 2002. Therefore, if we find that Hynix received any non-recurring grants, loans, or loan guarantees in those years, we will determine whether the company was creditworthy in those years.

The petitioner also alleges that Hynix was unequityworthy in 2001, the year in which Hynix recorded convertible bonds as capital adjustments (*i.e.*, swapped debt for equity). Specifically, according to the petitioner: 1) Hynix posted net losses since 1998; 2) the lead underwriter of Hynix's 2001 issuance of global depository receipts (''GDR'') did not foresee positive free cash flow for the company through the fourth quarter of 2003; 3) without free positive cash flow, Hynix could not service its debt, forcing it into bankruptcy and eliminating any claims by the shareholders on the company's proceeds; 4) Hynix's return on equity was negative for the period 1998 through 2000 (negative 35.5 in 2000), and was projected to range from negative 54.1 percent to negative 89.1 percent through 2003; and 5) although Hynix had a GDR equity offering to private investors in June 2001, because the 72 percent drop in the prices of these GDRs showed that Hynix's financial position had degenerated, this offering does not indicate that Hynix was equityworthy at the time of the debt-equity swap in October 2001. The petitioner claims that the convertible bonds should be treated as equity, not debt, because the bondholders were obligated to convert the bonds and Hynix treated these bonds as capital adjustments. In the case of a government equity infusion, the Department measures the benefit by examining the investment decision against the usual investment practice of a private investor. 19 CFR 351.507(a)(1). Specifically, the Department compares the purchase price paid by the government to prices paid for new shares by private investors, if such prices exist. 19 CFR 351.507(a)(2). If actual private investor prices are unavailable, the Department will determine the equityworthiness of a company at the time of the equity infusion. 19 CFR 351.507(a)(3).

In this case, although Hynix did issue GDR's in the first half of 2001, we find that the petitioner provides a reasonable basis to believe or suspect that, at the time of the October 2001 bailout, Hynix was not equityworthy. If we determine that Hynix received an equity infusion in 2001, we will make a determination regarding Hynix's equityworthiness at the time of the infusion.

II. Programs

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in Korea. The bases for our determination to investigate these programs are set forth in the *Initiation Checklist*.

For several of the programs listed below, the petitioner alleges that the GOK 1) directs credit in Korea, and 2) this credit was directed specifically to the semiconductor industry. For the reasons stated in the *Initiation Checklist*, we are investigating whether the GOK directs credit in Korea and whether the semiconductor industry receives a disproportionate share of the directed credit.

A. Bailout Subsidies to Hynix

1. Syndicated Bank Loan of 800 Billion Won
2. 22.7 Billion Won Citibank Loan
3. KDB Fast Track Program
4. May 2001 Bailout
a. Creditor Purchase of 994.1 Billion Won of Convertible Bonds
b. 6 Billion Won Grant
c. 5.9 Billion Won Loan
d. Extension of Maturities of 58 Billion Won of Short-Term Loans
e. Extension of Maturities of Long-Term Loans
f. Committed Availability of Short-Term Financing

5. 680 Billion Won Bond Guarantee
6. October 2001 Bailout
a. Equity Infusion
b. Extension of Debt Maturities and Reduction or Elimination of Interest Obligations
c. Debt Forgiveness
d. Conversion of Short-Term Financing to Long-Term Loans
e. Fresh Loans
7. D/A Financing
B. Other Subsidies
1. Preferential Loan Programs
a. Fund for Industrial Technology Development
b. Fund for Promotion of Science and Technology
c. Fund for Rental Housing
d. Fund for Promotion of Defense Industry
e. Long-Term Usance Loans
f. Export Industry Facility Loans (''EIFLs'')
g. Short-term Export Financing
h. Export Credit Financing From Export-Import Bank of Korea
i. Loans From the Energy Savings Fund
j. Fund for Machinery Made in Korea
k. Fund for Promotion of Informatization
2. R&D Support
3. Tax Programs
a. Reserve for Overseas Market Development - (Former) Article 17 of TERCL
b. Technological Development Reserve Funds - (Former) Article 8 of TERCL
c. Reserve for Export Loss - (Former) Article 16 of TERCL
d. Tax Credit for Investment in Facilities for Productivity Enhancement under Article 24 of RSTA
e. Miscellaneous Investment Tax Credits - Article 10, 18, 25, 26, and 71 of RSTA
f. Foreign Investment Promotion Act (Formerly Foreign Capital Inducement Law (''FCIL''))
4. Other Benefits
a. Duty Drawback on Non-Physically Incorporated Items and Excessive Loss Rates
b. Export Insurance
c. Electricity Discounts Under the Requested Load Adjustment Program
d. Targeted Assistance Programs
i. Operation G&/HAN Program and 21st Century Frontier R&D Program
ii. Korean Semiconductor Research Project

We are not investigating the following alleged subsidy programs: Tax Credit for Investment in Equipment to Develop Technology and Manpower - Article 11 of RSTA (formerly Article 9 of TERCL) and Special Taxation Provisions Relating to Corporate Restructuring.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act, a public version of the petition has been provided to the GOK. We will attempt to provide a public version of the petition to each exporter named in the petition, as provided for under 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine, no later than December 16, 2002, whether there is a reasonable indication that imports of DRAMs from Korea are causing material injury, or threatening to cause material injury, to an industry in the United States. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: November 21, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Open Town Meeting for Information Gathering on Exploring the Development of a Textile ''Marker'' System

November 22, 2002.

AGENCY: Department of Commerce, International Trade Administration.

ACTION: Notice of an open meeting.

SUMMARY: The International Trade Administration (ITA) will hold a public meeting on technologies under investigation for a textile ''marker'' system.

DATES: The meeting is scheduled for December 10, 2002, from 10:00am to 12:00pm.

ADDRESSES: The meeting will be held at the North Carolina Center for Applied Textile Technology (NCCATT), 7220 Wilkinson Boulevard, Belmont, NC. Telephone, (704) 825-3737.

FOR FURTHER INFORMATION CONTACT: Don Niewiaroski, Jr. at (202) 482-4058, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: Directions to the NCCATT are as follows: Take Exit 27 off of I-85 South. Go left at the top of the exit ramp on Highway 273 for approximately 1/3 of a mile. Go left on Highway 74 for approximately 2/3 of a mile until you reach the NCCATT campus on your right. Proceed to the auditorium in the ''new building'' at 7230 Wilkinson Boulevard. From Charlotte airport follow signs to I-85 South and the directions are the same as above. For further information please contact the North Carolina Center for Applied Textile Technology at (704) 825-3737.

The meeting will be co-chaired by James C. Leonard III, Commerce Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods Industries and Dr. Glenn O. Allgood, Principal Investigator, Oak Ridge National Laboratory. During the meeting the following agenda item will be discussed.

Department of Commerce (DOC)/ Department of Energy (DOE) Project to Explore the Development of a Special Textile ''Marker'' System

DOE will make a presentation on the technologies under investigation for a textile ''marker'' system. DOE and DOC officials will discuss this project at the meeting, and will encourage participants to provide individual comments and information on these technologies with particular reference to: cost effectiveness; compatibility with U.S. manufacturing processes; the ability to survive foreign fabrication techniques; and compatibility with U.S. Customs processes and procedures. Discussion will include possibilities of and opportunities for plant visits by DOE personnel and other pertinent issues.

Background

On October 29, 2002 the Department of Commerce entered into an agreement with the Department of Energy's Oak Ridge Operations Office to explore the development of a special ''marker'' system to track the presence of U.S.-made yarns and fabrics in U.S. apparel imports.

Certain provisions of U.S. apparel import preference programs and free trade area agreements require the use of U.S. textile inputs. However, the origin of such inputs is difficult to determine and the development of a textile marker system is intended to ensure the use of U.S. fabrics and yarns in products receiving preferences.