Antidumping Duty Administrative Reviews, 65 FR 43290 (July 13, 2000) (*98–99 Final Results*). On August 18, 2000, the Department published amended final results of its antidumping duty review of HFHTs from the PRC. *See Heavy Forged Hand Tools from the People's Republic of China; Amended Final Results of Antidumping Duty Administrative Reviews,* 65 FR 50499 (August 18, 2000) (*Amended 98–99 Final Results*).

Following the publication of the *Amended 98–99 Final Results,* Shandong Huarong General Group Corp. (Huarong), Liaoning Machinery Import & Export Company (LMC), and Tianjin Machinery Import & Export Corp. (TMC) challenged certain aspects of our final results and amended final results before the CIT. This litigation resulted in a remand order by the CIT to revise the margin calculation program by redetermining the surrogate value for pallets and recalculating the margin accordingly. *See Shandong Huarong General Group Corp., Liaoning Machinery Import & Export Company, and Tianjin Machinery Import & Export Corp.* v. *United States,* 159 F. Supp. 2d 714 (Ct. Int'l Trade, 2001). On September 20, 2001, the Department issued its *Final Results Of Redetermination Pursuant to Court Remand, Shandong Huarong General Corp.* v. *The United States* (Remand Redetermination), addressing the ruling of the CIT. The Remand Redetermination can be found at *http://www.ia.ita.doc.gov/remands/01-88.htm.*

On October 30, 2001, the CIT sustained the redetermination made by the Department pursuant to the remand. *See Shandong Huarong General Group Corp., Liaoning Machinery Import & Export Company, and Tianjin Machinery Import & Export Corp.* v. *United States,* 177 F. Supp. 2d 1304 (Ct. Int'l Trade, 2001). The decision of the CIT was subsequently affirmed by the CAFC. *See Shandong Huarong General Group Corp., Liaoning Machinery Import & Export Company, and Tianjin Machinery Import & Export Corp.* v. *United States,* No. 02–1095 (Fed. Cir. 2003). A panel rehearing was denied on March 18, 2003.

Amendment to Final Results

The time period for appealing the CAFC's final decision has expired and no party has appealed this decision. As there is now a final and conclusive court decision with respect to litigation for Huarong, LMC, and TMC, we are amending the final results of review to reflect the findings of the remand results, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act). The amended weighted-average margins are:

Manufacturer/exporter	Margin (percent)
Shandong Huarong General Group Corporation:	
Axes/Adzes	55.74
Bars/Wedges	27.28
Liaoning Machinery Import & Export Corporation: Bars/Wedges	27.18
Tianjin Machinery Import & Export Corporation:	
Axes/Adzes	55.74
Bars/Wedges	139.31
Hammers/Sledges	0.41
Picks/Mattocks	0.10

Assessment Rates

The Department will determine, and the BCBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer-specific assessment rate for merchandise subject to this review. Where the importer-specific assessment rate is above de minimis, we will instruct the BCBP to assess antidumping duties on that importer's entries of subject merchandise. The Department will issue appropriate assessment instructions directly to the BCBP within 15 days of publication of these amended final results of review. We will direct the BCBP to assess the resulting assessment rates for the subject merchandise on each of the importer's entries during the review period.

Notification

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These final results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(i)(1)).

Dated: June 16, 2003.

Joseph A. Spetrini,

Assistant Secretary for Import Administration.

[FR Doc. 03–15657 Filed 6–20–03; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-580–851]

Final Affirmative Countervailing Duty Determination: Dynamic Random Access Memory Semiconductors from the Republic of Korea

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

ACTION: Notice of final affirmative countervailing duty determination.

SUMMARY: The Department of Commerce has made a final determination that countervailable subsidies are being provided to certain producers and exporters of dynamic random access memory semiconductors from the Republic of Korea. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section, below.

EFFECTIVE DATE: June 23, 2003.

FOR FURTHER INFORMATION CONTACT: Ryan Langan, Jesse Cortes, or Daniel J. Alexy, Office of Antidumping/Countervailing Duty Enforcement, Group 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone(202) 482–2613, (202) 482–3986, and (202) 482–1540, respectively.

SUPPLEMENTARY INFORMATION:

Petitioner

The petitioner in this investigation is Micron Technology, Inc. (''the petitioner'').

Period of Investigation

The period for which we are measuring subsidies, or period of investigation, is January 1, 2001 through June 30, 2002.

Case History

The following events have occurred since the publication of the preliminarydetermination in the **Federal Register** on April 7, 2003. *See*

Preliminary Affirmative Countervailing Duty Determination: Dynamic Random Access Memory Semiconductors from the Republic of Korea (68 FR 16766) (''*Preliminary Determination*'').

On April 7, 2003, the petitioner submitted comments alleging that Samsung Electronics Co., Ltd., (''SEC'') was uncreditworthy during the period 1997 through 1999. SEC filed rebuttal information relating to this allegation on April 10 and 17, 2003. The Department of Commerce (''the Department'') initiated an investigation of SEC's creditworthiness for 1998 only in an April 17, 2003 memorandum to Louis Apple entitled ''Samsung Electronics Co., Ltd. Uncreditworthiness Allegation,'' which is on file in the Department's Central Records Unit in Room B-099 of the main Department building (''CRU''). SEC and the petitioner filed further comments on this creditworthiness investigation subsequent to its initiation.

On April 8, 2003, Hynix Semiconductor, Inc. (''Hynix'') submitted ministerial error allegations relating to the *Preliminary Determination*. The petitioner filed a response to these allegations on April 14, 2003. We addressed these ministerial error allegations in an April 16, 2003 memorandum to Louis Apple entitled ''Ministerial Error Allegations for Preliminary Determination,'' which is on file in the Department's CRU.

We issued supplemental questionnaires to SEC, Hynix, and the Government of the Republic of Korea (''GOK'') on April 8, and May 5, 6, and 20, 2003. We received responses to these supplemental questionnaires on April 14 and 16, and May 13, 15, and 22, 2003. The respondents, the petitioner, and interested parties also submitted factual information, comments, and arguments at numerous instances prior to the final determination based on various deadlines for submissions of factual and information and/or arguments established by the Department subsequent to the *Preliminary Determination*.

From April 21 to May 3, 2003, we conducted verification of the questionnaire responses submitted by the GOK, Hynix, and SEC.

On May 28, 2003, the Department issued a memorandum entitiled ''Preliminary Determination on New Subsidy Allegations and New Subsidies Discovered in the Course of Investigation'' (''*Supplemental Preliminary Determination Memo*'') that addressed two new allegations raised by the petitioner just prior to the *Preliminary Determination*, as well as one new program discovered during verification.

We received case briefs from the GOK, SEC, Hynix, Infineon Technologies North America Corporation and Infineon Technologies Richmond, LP (a domestic producer and an interested party in this proceeding), and the petitioner on May 22, 2003. The parties submitted rebuttal briefs on May 30, 2003. On June 2, 2003, the petitioner and the GOK/SEC submitted supplemental case briefs on the issues addressed in the Department's *Supplemental Preliminary Determination Memo*. These same parties submitted rebuttal briefs on these topics on June 4, 2003. We held a hearing in this investigation on June 6, 2003.

Scope of Investigation

The products covered by this investigation are dynamic random access memory semiconductors (''DRAMS'') from the Republic of Korea (''ROK''), whether assembled or unassembled. Assembled DRAMS include all package types. Unassembled DRAMS include processed wafers, uncut die, and cut die. Processed wafers fabricated in the ROK, but assembled into finished semiconductors outside the ROK are also included in the scope. Processed wafers fabricated outside the ROK and assembled into finished semiconductors in the ROK are not included in the scope.

The scope of this investigation additionally includes memory modules containing DRAMS from the ROK. A memory module is a collection of DRAMS, the sole function of which is memory. Memory modules include single in-line processing modules, single in-line memory modules, dual in-line memory modules, small outline dual in-line memory modules, Rambus in-line memory modules, 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 boards and cards, are not included in the scope. This investigation also covers future DRAMS module types.

The scope of this investigation additionally includes, but is not limited to, video random access memory and synchronous graphics random access memory, as well as various types of DRAMS, including fast page-mode, extended data-out, burst extended data-out, synchronous dynamic RAM, Rambus DRAM, and Double Data Rate DRAM. 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, unless the importer of the motherboards certifies with the U.S. Bureau of Customs and Border Protection (''Customs'') 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 ubheadings 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 the ROK, 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.

Injury Test

Because the ROK is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (''the Act''), the International Trade Commission (''ITC'') is required to determine whether imports of the subject merchandise from the ROK materially injure, or threaten material injury to, a U.S. industry. On December 13, 2002, the ITC made its preliminary determination that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports from the ROK of the subject merchandise. *See Drams and Dram Modules from Korea*, 67 FR 79148 (December 27, 2002).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Issues and Decision Memorandum'' from Jeffrey May, Deputy Assistant Secretary, Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary, Import Administration, dated June 16, 2003 (''*Decision Memorandum*''), which is hereby adopted by this notice. Attached to this

notice as an Appendix is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at *http://ia.ita.doc.gov/frn/* under the heading ''Korea.'' The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Suspension of Liquidation

As a result of our *Preliminary Determination*, we instructed Customs to suspend liquidation of all entries of DRAMS from the ROK which were entered or withdrawn from warehouse, for consumption on or after April 7, 2003, the date of the publication of the *Preliminary Determination* in the **Federal Register** (with the exception of entries from SEC as we preliminarily determined SEC's rate to be *de minimis*).

In accordance with section 705(c)(1)(C) of the Act, we are directing Customs to continue to suspend liquidation of all imports of the subject merchandise from the ROK that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, with the exception of entries for SEC, for whom we have determined the net subsidy rate to be *de minimis*. These suspension of liquidation instructions will remain in effect until further notice.

We determine the total estimated net subsidy rate for each company to be the following:

Producer/Exporter	Net Subsidy Rate
Samsung Electronics Co., Ltd.	0.04 percent (*de minimis*)
Hynix Semiconductor Inc. (formerly, Hyundai Electronics Industries Co., Ltd.)	44.71 percent
All Others	44.71 percent

In accordance with sections 777A(e)(2)(B) and 705(c)(5)(A) of the Act, we have set the ''all others'' rate as Hynix' rate because the rate for SEC, the only other investigated company, is *de minimis*.

We will issue a countervailing duty order if the ITC issues a final affirmative injury determination and we will instruct Customs to require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an Administrative Protective Order (''APO''), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: June 16, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

APPENDIX

List of Comments and Issues in the Decision Memorandum

Comment 1: Direction of Credit
Comment 2: Specificity Relating to Direction of Credit
Comment 3: Application of Commercial Benchmarks to Determine the Amount of Benefits to Hynix Semiconductor Inc. (formerly, Hyundai Electronics Industries Co., Ltd. (''HEI'')) (''Hynix'')
Comment 4: Direction of Credit Through the Government of the Republic of Korea's (''GOK'') Control of the Bond Market
Comment 5: Hynix Creditworthiness
Comment 6: Korea Development Bank (''KDB'') Fast Track Program
Comment 7: Hynix October 2001 Debt-to-Equity Conversion
Comment 8: Hynix October 2001 Debt Forgiveness
Comment 9: Hynix Five-Year Interest-Free Loan Stemming from October 2001 Restructuring
Comment 10: Hynix October 2001 Retroactive Reduction of Accrued Interest as Part of Debt-Equity Swap
Comment 11: Hynix Benefit from Convertible Bonds (''CB'') Arising Between Issuance and Conversion Stemming from October 2001 Restructuring
Comment 12: Treating Loans to Hynix in Excess of Banking Act Exposure Limitations and Documents Against Acceptance (''D/A'') Financing as Grants
Comment 13: D/A Interest Rates
Comment 14: Hynix Sales
Comment 15: Hynix Short-Term Financing
Comment 16: Ministerial Errors In Certain Hynix Preliminary Determination Calculations
Comment 17: Use of LG Semiconductor, Inc. (''LG Semicon'') Bonds as Hynix Benchmarks
Comment 18: Calculation of Uncreditworthy Benchmarks
Comment 19: Other General Benchmark Issues
Comment 20: Samsung Electronics Co., Ltd. (''SEC'') Creditworthiness
Comment 21: Facts Available for SEC's Unreported Short- and Long-Term Financing
Comment 22: Treatment of Certain SEC Interest Payments
Comment 23: SEC Sales
Comment 24: Energy Savings Fund (''ESF'') Program
Comment 25: De Facto Specificity of Certain Tax Programs Under the Tax Reduction and Exemption Control Act (''TERCL'') and/or the Restriction of Special Taxation Act (''RSTA'')
Comment 26: RSTA Article 26 and Import Substitution
Comment 27: 21st Century Frontier Research and Development (''R&D'') Program
Comment 28: Other R&D Programs
Comment 29: Export Insurance Program
Comment 30: Electricity Discounts Under the Requested Load Adjustment (''RLA'') Program

Comment 31: Duty Drawback on Non-Physically Incorporated Items and Excessive Loss Rates, and on Domestic Sales of Finished Products Manufactured from Imported Raw Materials
Comment 32: Import Duty Reduction for Cutting Edge Products
Comment 33: Permission for Hynix and SEC to Build in Restricted Area
Comment 34: Exemption of Value-Added Tax (''VAT'') on Imports Used for Bonded FactoriesUnder Construction

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DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act

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

ACTION: Modification of agency practice regarding privatizations.

SUMMARY: On January 8, 2003, the Dispute Settlement Body (DSB) of the World Trade Organization (WTO) adopted the report of the WTO Appellate Body in *United States-Countervailing Measures Concerning Certain Products from the European Communities,* WT/DS212/AB/R (December 9, 2002) (*Certain Products*), that recommends that the United States bring its administrative practice regarding privatization, both as such and as applied in twelve challenged administrative determinations, into conformity with its obligations under the WTO Subsidies and Countervailing Measures Agreement (Subsidies Agreement). Section 123 of the Uruguay Round Agreements Act (URAA) governs changes in the Department of Commerce's (Department's) practice when a dispute settlement panel or the Appellate Body of the World Trade Organization finds such practice to be inconsistent with any of the Uruguay Round agreements. Consistent with section 123(1)(g)(C), we published a proposed modification of the Department's privatization methodology, together with an explanation thereof, and provided opportunity for public comment. *Notice of Proposed Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act and Request for Public Comment,* 68 FR 13897 (March 21, 2003). We received numerous affirmative and rebuttal comments submitted pursuant to this notice, as discussed below.

FOR FURTHER INFORMATION CONTACT: Greg Campbell, Office of Policy, Import Administration, U.S. Department of Commerce, Room 3712, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2239.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930, as amended (the Act). Citation to ''section 123'' refers to section 123 of the URAA.

Background

On February 2, 2000, the U.S. Court of Appeals for the Federal Circuit in *Delverde Srl* v. *United States,* 202 F.3d 1360, 1365 (Fed. Cir. 2000), *reh'g granted in part* (June 20, 2000) (Delverde III), rejected the Department's application of its change-in-ownership methodology, as explained in the *General Issues Appendix,* to the facts before it in that case.[1] The Federal Circuit held that the Act, as amended, did not allow the Department to presume conclusively that the subsidies granted to the former owner of Delverde's corporate assets automatically ''passed through'' to Delverde following the sale. Rather, where a subsidized company has sold assets to another company, the Court held that the Act requires the Department to examine the particular facts and circumstances of the sale and determine whether the purchasing company directly or indirectly received both a financial contribution and benefit from the government. Delverde III, 202 F.3d at 1364–1368.

Pursuant to the Federal Circuit's finding, the Department developed a new change-in-ownership methodology, first announced in a remand determination on December 4, 2000, following the Federal Circuit's decision in *Delverde III,* and also applied in *Grain-Oriented Electrical Steel from Italy; Final Results of Countervailing Duty Administrative Review,* 66 FR 2885 (January 12, 2001). The first step under this methodology was to determine whether the legal person to which the subsidies were given was, in fact, distinct from the legal person that produced the subject merchandise exported to the United States. If we determined that the two persons were distinct, we then analyzed whether a subsidy was provided to the purchasing entity as a result of the change-in-ownership transaction. If we found, however, that the original subsidy recipient and the current producer/exporter were the same person, then that person continued to benefit from the original subsidies, and its exports were subject to countervailing duties to offset those subsidies.

This ''same-person'' privatization methodology is currently the subject of appeals to the Federal Circuit in three cases: *Acciai Speciali Terni S.p.A.* v. *United States,* Ct. No. 01–00051; *Allegheny Ludlum Corp.* v. *United States,* Ct. Nos. 03–1189 and 03–1248; and *GTS Industries, S.A.* v. *United States,* Ct. Nos. 03–1175 and 03–1191.

On August 8, 2001, the European Communities requested that the DSB establish a dispute settlement panel to examine the practice of the United States of imposing countervailing duties on certain products exported from the European Communities by privatized companies. A panel was established, the case was briefed and argued, and the Panel circulated its final report on July 31, 2002. *United States-Countervailing Measures Concerning Certain Products from the European Communities,* WT/DS212/R (July 31, 2002) (Panel Report). The United States appealed certain findings and conclusions in the Panel Report, and the Appellate Body circulated its report on December 9, 2002. *United States-Countervailing Measures Concerning Certain Products from the European Communities,* WT/DS212/AB/R (December 9, 2002) (AB Report). The AB Report, and the Panel Report as modified by the AB Report, were adopted by the DSB on January 8, 2003. On January 27, 2003, the United States informed the DSB that it would implement the recommendations and rulings of the DSB in a manner consistent with its WTO obligations.

Section 123 of the URAA is the applicable provision governing the actions of the Department when a WTO dispute settlement panel or the Appellate Body finds that a regulation or practice of the Department is inconsistent with any of the Uruguay Round agreements. Specifically, section 123(g)(1) provides that, ''[i]n any case in which a dispute settlement panel or the Appellate Body finds in its report that a regulation or practice of a department or agency of the United States is inconsistent with any of the Uruguay Round Agreements, that regulation or practice may not be amended, rescinded, or otherwise modified in the implementation of such report unless and until * * * (C) the head of the relevant department or agency has provided an opportunity for public

[1] Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria, 58 FR 37217, 37225 (July 9, 1993).