ANTIDUMPING DUTY ORDER ON WELDED ASTM–A312 STAINLESS STEEL PIPE FROM TAIWAN—Continued

Manufacturer/Exporter	Weighted average margin (percent)
Yeun Chyang Industrial Co., Ltd.	31.90
All Others	22.92

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

We are issuing and publishing the results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: October 26, 2011.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2011–28425 Filed 11–1–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–865]

Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Negative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea

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

ACTION: Notice.

SUMMARY: We preliminarily determine that bottom mount combination refrigerator-freezers (bottom mount refrigerators) from the Republic of Korea (Korea) are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). In addition, we preliminarily determine that there is no reasonable basis to believe or suspect that critical circumstances exist with respect to the subject merchandise exported from Korea.

Interested parties are invited to comment on this preliminary determination. Because we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Henry Almond or Elizabeth Eastwood, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0049 or (202) 482–3874, respectively.

Preliminary Determination

We preliminarily determine that bottom mount refrigerators from Korea are being sold, or are likely to be sold, in the United States at LTFV, as provided in section 733(b) of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice. In addition, we preliminarily determine that there is no reasonable basis to believe or suspect that critical circumstances exist with respect to the subject merchandise exported from Korea. The critical circumstances analysis for the preliminary determination is discussed below under the section ''Critical Circumstances.''

Background

Since the initiation of this investigation on April 19, 2011 (*see Initiation of Antidumping Duty Investigations: Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea and Mexico,* 76 FR 23281 (April 26, 2011) (*Initiation Notice*)), the following events have occurred.

On May 2, 2011, Daewoo Electronics Corporation (Daewoo) identified itself as an exporter and producer of the subject merchandise in Korea and requested that it be designated as a mandatory respondent. On May 10, 2011, we included Daewoo as a mandatory respondent in this investigation. *See* Memorandum to James Maeder, Director, Office 2, from David Goldberger, Senior International Trade Analyst, entitled, ''Inclusion of Daewoo as a Mandatory Respondent,'' dated May 10, 2011.

On May 13, 2011, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of bottom mount refrigerators from Mexico are materially injuring the United States industry. *See* ITC Investigation Nos. 701–TA–477 and 731–TA–1180–1181 (Publication No. 4232).

On May 20, 2011, we issued section A of the questionnaire (*i.e.,* the section covering general information) to Daewoo, LG Electronics, Inc. (LG), and Samsung Electronics Co., Ltd. (Samsung). We issued sections B through E of the questionnaire (*i.e.,* the sections covering comparison market sales, U.S. sales, cost of production (COP) information, and further manufacturing information, respectively) to these respondents on May 25, 2011.

Also, in May 2011, various interested parties, including Whirlpool Corporation (hereafter, the petitioner), submitted comments on the scope of this and the concurrent antidumping and countervailing duty investigations of bottom mount refrigerators from Mexico and Korea. *See* ''Scope Comments'' section of this notice.

We received responses to section A of the questionnaire from Daewoo, LG, and Samsung in June 2011, and to sections B, C, and D of the questionnaire in July 2011. No responses to section E of the questionnaire were necessary.

We issued supplemental questionnaires from July through September 2011, and we received responses to these supplemental questionnaires from July through October 2011.

On July 29, 2011, the petitioner alleged that critical circumstances existed with respect to bottom mount refrigerators produced and exported from Korea. On August 10, 2011, we requested monthly shipment data from the respondents for the period January 2008 through July 2011 for purposes of this analysis.

On August 11, 2011, the petitioner submitted allegations related to affiliated party transactions and the major input rule with respect to subject merchandise produced and exported from Korea by LG and Samsung.

Also on August 11, 2011, the petitioner requested that the date for the issuance of the preliminary determination in this investigation be

fully extended pursuant to section 733(c)(1) of the Act and 19 CFR 351.205(e). On August 16, 2011, pursuant to sections 733(c)(1)(A) and (c)(2) of the Act and 19 CFR 351.205(f), the Department postponed the preliminary determination until no later than October 26, 2011. *See Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea and Mexico: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 76 FR 52313 (August 22, 2011).

Also on August 16, 2011, LG objected to the Department's request for monthly shipment data, arguing that the petitioner's critical circumstances allegation did not meet the necessary statutory criteria. We responded to LG's objection on August 18, 2011. Daewoo, LG, and Samsung submitted the requisite shipment data on August 24, 2011. In their submissions, LG and Samsung provided comments on how the Department should analyze whether critical circumstances exist with respect to their imports of bottom mount refrigerators from Korea.

On September 9, 2011, the petitioner alleged that targeted dumping was occurring with respect to bottom mount refrigerators produced and exported from Korea by LG and Samsung.

On October 5, 2011, we issued an additional supplemental questionnaire regarding Samsung's section D response. Although the October 14, 2011, response to this questionnaire was timely, it was received too late for consideration in the preliminary determination. Moreover, subsequent to this date, we also received various submissions from interested parties to this investigation. As with Samsung's supplemental questionnaire response, these submissions were also received too late for consideration in the preliminary determination. We will consider each of these submissions in our final determination.

On October 6, 2011, we requested updated shipment data from Daewoo, LG, and Samsung for consideration in our critical circumstances analysis for the final determination.

On October 18, 19, and 21, 2011, respectively, Daewoo, Samsung, and LG requested a postponement of the final determination.

Also on October 21, 2011, we received an amendment to the petitioner's targeted dumping allegation for LG. Because the petitioner's original allegation was based on data which were superseded by LG's supplemental response, we have accepted this amendment for purposes of the preliminary determination.

Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

Pursuant to section 735(a)(2) of the Act, on October 18, 19, and 21, 2011, respectively, Daewoo, Samsung, and LG requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register,** and extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative for LG and Samsung, (2) LG and Samsung account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting LG's and Samsung's requests and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register.** Suspension of liquidation will be extended accordingly.

Period of Investigation

The period of investigation (POI) is January 1, 2010, through December 31, 2010. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.,* March 2011).

Scope of Investigation

The products covered by the investigation are all bottom mount combination refrigerator-freezers and certain assemblies thereof from Korea. For purposes of the investigation, the term ''bottom mount combination refrigerator-freezers'' denotes freestanding or built-in cabinets that have an integral source of refrigeration using compression technology, with all of the following characteristics:

- The cabinet contains at least two interior storage compartments accessible through one or more separate external doors or drawers or a combination thereof;
- An upper-most interior storage compartment(s) that is accessible through an external door or drawer is either a refrigerator compartment or convertible compartment, but is not a freezer compartment; [1] and
- There is at least one freezer or convertible compartment that is mounted below an upper-most interior storage compartment(s).

For purposes of the investigation, a refrigerator compartment is capable of storing food at temperatures above 32 degrees F (0 degrees C), a freezer compartment is capable of storing food at temperatures at or below 32 degrees F (0 degrees C), and a convertible compartment is capable of operating as either a refrigerator compartment or a freezer compartment, as defined above.

Also covered are certain assemblies used in bottom mount combination refrigerator-freezers, namely: (1) Any assembled cabinets designed for use in bottom mount combination refrigerator-freezers that incorporate, at a minimum: (a) an external metal shell, (b) a back panel, (c) a deck, (d) an interior plastic liner, (e) wiring, and (f) insulation; (2) any assembled external doors designed for use in bottom mount combination refrigerator-freezers that incorporate, at a minimum: (a) An external metal shell, (b) an interior plastic liner, and (c) insulation; and (3) any assembled external drawers designed for use in bottom mount combination refrigerator-freezers that incorporate, at a minimum: (a) an external metal shell, (b) an interior plastic liner, and (c) insulation.

The products subject to the investigation are currently classifiable under subheadings 8418.10.0010, 8418.10.0020, 8418.10.0030, and 8418.10.0040 of the Harmonized Tariff System of the United States (HTSUS). Products subject to this investigation may also enter under HTSUS subheadings 8418.21.0010, 8418.21.0020, 8418.21.0030, 8418.21.0090, and 8418.99.4000, 8418.99.8050, and 8418.99.8060. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.

[1] The existence of an interior sub-compartment for ice-making in an upper-most storage compartment does not render an upper-most storage compartment a freezer compartment.

Scope Comments

In accordance with the preamble to the Department's regulations (*see Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997)), in our *Initiation Notice* we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice.*

On May 9, 2011, we received timely comments on the scope of the investigation from Samsung. Specifically, Samsung requested that the Department clarify the current description of a freezer compartment and exclude a certain type of refrigerator-freezer from the scope. These scope requests are as follows:

1. Samsung requested that the Department use the Association of Home Appliance Manufacturers (AHAM) definition to revise the current description of a freezer compartment; and

2. Samsung requested that the Department determine that a certain type of refrigerator with four compartments known as ''Quatro Cooling Refrigerators'' be excluded from the scope due to its upper-left non-convertible freezer compartment.

On May 18, 2011, Daewoo and LG submitted comments in response to Samsung's May 9 submission. In their comments, Daewoo and LG agreed with Samsung that the Department should amend the scope language to use the AHAM definition. Alternatively, LG requested that at a minimum the Department exclude from the scope any refrigerator, regardless of freezing capability, that is specifically designed to store kimchi.

Also on May 18, 2011, as well as on June 30, 2011, the petitioner submitted comments objecting to the requests filed by Samsung and LG, respectively. As part of these comments, the petitioner proposed a modification to the scope language with respect to the positioning of the freezer in relation to the upper-most compartment. Samsung submitted rebuttal comments on July 25, 2011.

Based on our analysis of these issues, we have preliminarily determined that the scope of this and the concurrent antidumping and countervailing duty investigations on bottom mount refrigerators from Mexico and Korea remains fundamentally unchanged. We have not modified the description of a freezer compartment in the scope of this investigation to be consistent with the AHAM definition, nor have we excluded kimchi refrigerators or Quatro Cooling Refrigerators from the scope of the investigation. However, as suggested by the petitioner, we have clarified the scope to eliminate any ambiguity with respect to the inclusion of Quatro Cooling Refrigerators in the scope of investigation.[2] *See* Memorandum to Gary Taverman, Acting Deputy Assistant Secretary for AD/CVD Operations, from James Maeder, Director, Office 2, entitled, ''Scope Modification Requests,'' dated October 26, 2011, for further discussion.

Facts Available Related to Samsung's Sales of Kimchi Refrigerators

The scope of the investigation includes all bottom mount refrigerators, including ''kimchi refrigerators,'' that meet the scope definition. As noted in the ''Scope Comments'' section of this notice, above, LG argued that the Department should modify the scope to exclude kimchi refrigerators. Therefore, in order to eliminate any confusion with respect to our reporting requirements, in June 2011 we clarified the reporting requirements of the questionnaire to include a product characteristic to specifically identify sales of kimchi refrigerators. While Daewoo and LG complied with our instructions and reported their home market sales of kimchi refrigerators, Samsung did not, arguing that its kimchi refrigerators did not fall within the scope. In July 2011, we instructed Samsung to report its sales of kimchi refrigerators and, again, Samsung refused to do so, repeating its claim that they were out-of-scope merchandise.

On September 1, 2011, we instructed Samsung to provide the technical specifications of its kimchi refrigerator models demonstrating that they fall outside the scope definition. At this time, we once again provided Samsung the alternative of reporting its sales of these models. In its September 29, 2011, response, Samsung continued to maintain that these models were not in scope. Nonetheless, instead of providing the technical specifications to support its claim, Samsung reported sales of kimchi refrigerators totaling many thousands of units, a figure which represents the vast majority of Samsung's home market sales.

On October 5, 2011, the petitioner provided further data which it states demonstrate that Samsung's kimchi refrigerators are in-scope merchandise.

Samsung eventually elected to report its sales of kimchi refrigerators, but because this new information was not received until the end of September, the Department did not have time to issue an associated supplemental questionnaire. Our initial analysis, however, indicates that there are serious problems with the sales data. Specifically, we have identified numerous areas of concern, including the following:

- There are significant inconsistencies in the methodology Samsung used to report its rebates, packing expenses, and indirect selling expenses between the kimchi sales databases and its other home market sales databases;
- Samsung reported many complicated schedules which include discrepancies for which Samsung has provided no explanation;
- There are inconsistencies between Samsung's narrative response and its reported data;
- Samsung reported kimchi refrigerator-specific rebate programs, and given Samsung's reporting issues with respect to its home market rebates (*see* the ''Calculation of Normal Value Based on Comparison Market Prices'' section, below), we cannot presume that these programs are not similarly deficient;
- Samsung departed from our specific instructions regarding the reporting of its control numbers; and
- Samsung did not separately identify packing expenses for its kimchi refrigerator models.

In light of these serious concerns, it became necessary to determine if the application of facts available was warranted.

Section 776(a) of the Act provides that the Department will apply ''facts otherwise available'' if necessary information is not available on the record or an interested party: (1) Withholds information that has been requested by the Department; (2) fails to provide such information within the deadlines established, or in the form or manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (3) significantly impedes a proceeding; or (4) provides such information, but the information cannot be verified.

Pursuant to section 776(a)(2)(B) of the Act, we find that Samsung failed to provide information in the form and manner requested by the Department and that it is appropriate to resort to facts otherwise available to account for the unreported information. In selecting from among the facts otherwise

[2] The scope language has been revised as follows: The two references to ''the upper-most interior storage compartment(s)'' have been replaced with ''an upper-most interior storage compartment;'' and the two references in the footnote to ''the upper-most storage compartment'' have been replaced with ''an upper-most storage compartment.''

available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with a request for information. The legislative history of the Act also provides guidance by explaining that adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* Statement of Administrative Action, accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–465 at 870 (1995). Information used to make an adverse inference may include such sources as the petition, other information placed on the record, or determinations in a prior proceeding regarding the subject merchandise. *Id.* and 19 CFR 351.308(c). Furthermore, ''affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.'' *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27340 (May 19, 1997); *see also Nippon Steel Corp.* v. *United States,* 337 F.3d 1373, 1383 (Fed. Cir. 2003) (*Nippon*).

Based on the information contained in Samsung's questionnaire responses, we find that Samsung's kimchi refrigerator sales data are not useable in their current form. Although, after numerous requests, this information was eventually submitted, it was received too close in time to the preliminary determination to permit the Department to issue a supplemental questionnaire to Samsung to remedy the deficiencies noted above. Moreover, because Samsung could have either reported the information at issue in the form and manner requested by the Department at an earlier date in response to the Department's prior questionnaires or provided the technical specifications to prove its claim that the models in question were not in-scope merchandise, and instead failed to do either, we find that Samsung has failed to cooperate to the best of its ability with our requests for information. Specifically, we find that an adverse inference is appropriate because Samsung: (1) Had the necessary information within its control and did not report this information; and (2) failed to put forth the maximum effort to provide the requested information. *See, e.g., Nippon,* 337 F.3d at 1883; and *Notice of Final Determination of Sales at Less Than Fair Value: Citric Acid and Certain Citric Salts from Canada,* 74 FR 16843, 16844–45 (April 13, 2009). Thus, for this preliminary determination, pursuant to section 776(b) of the Act, we find that it is appropriate to apply adverse facts available (AFA) with respect to Samsung's U.S. sales either: (1) Which had as their closest product comparison a kimchi refrigerator model; or (2) for which normal value (NV) was based on constructed value (CV).[3]

As AFA for the percentage of U.S. sales meeting the above criteria, we have preliminarily used the highest margin calculated for any U.S. transaction for Samsung, in accordance with our practice. *See, e.g., Notice of Final Determination of Sales at Less than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Brazil,* 67 FR 62132 (October 3, 2002), and accompanying issues and Decision Memorandum at Comment 1; *Static Random Access Memory Semiconductors From Taiwan; Final Results of Antidumping Duty New Shipper Review,* 65 FR 12214 (March 8, 2000), and accompanying Issues and Decision Memorandum at Comment 1; *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909, 8912 (February 23, 1998); *Final Determination of Sales at Less Than Fair Value; Stainless Steel Sheet and Strip in Coils From Germany,* 64 FR 30710, 30732 (June 8, 1999); and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa,* 62 FR 61731, 61747 (November 19, 1997). In selecting a facts available margin, we sought a margin that is sufficiently adverse so as to effectuate the statutory purposes of the AFA rule, which is to induce respondents to provide the Department with complete and accurate information in a timely manner. We also sought a margin that is rationally related to the transactions to which the AFA is being applied and indicative of Samsung's customary selling practices. To that end, we selected the highest margin on an individual sale in a commercial quantity that fell within the mainstream of Samsung's transactions (*i.e.,* transactions that reflect sales of products that are representative of the broader range of models used to determine normal value).

We intend to issue an additional supplemental questionnaire to Samsung to allow it to remedy the deficiencies in the sales data for kimchi model refrigerators noted above, and we will consider this information for purposes of our final determination. However, if Samsung fails to respond adequately to this subsequent request for information, for purposes of the final determination, we may consider whether total versus partial AFA is appropriate for Samsung given the high percentage of comparisons affected by these deficiencies. *See* the Memorandum to the File from Elizabeth Eastwood, Senior Analyst, entitled, ''Calculations Performed for Samsung Electronics Corporation (Samsung) for the Preliminary Determination in the Antidumping Duty Investigation of Bottom Mount Refrigerators from Korea'' (Samsung Calculation Memo), dated October 26, 2011.

Targeted Dumping Allegations

The statute allows the Department to employ the average-to-transaction margin-calculation methodology under the following circumstances: (1) There is a pattern of export prices that differ significantly among purchasers, regions, or periods of time; and (2) the Department explains why such differences cannot be taken into account using the average-to-average or transaction-to-transaction methodology. *See* section 777A(d)(1)(B) of the Act.

On September 9, 2011, the petitioner submitted allegations of targeted dumping with respect to LG and Samsung and asserted that the Department should apply the average-to-transaction methodology in calculating the margins for these respondents. In its allegations, the petitioner asserted that there are patterns of U.S. sales prices for comparable merchandise that differ significantly among time periods. The petitioner relied on the Department's targeted dumping test in *Certain Steel Nails From the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value,* 73 FR 33985 (June 16, 2008), and *Certain Steel Nails From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances,* 73 FR 33977 (June 16, 2008) (collectively *Nails*), as applied in more recent investigations such as *Multilayered Wood Flooring from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value,* 76 FR 30656, 30659–60 (May 26, 2011). *See* the Petitioner's Submission of Targeted Dumping Allegations dated September 9, 2011, at pages 8–12.

On October 21, 2011, we received an amendment to the petitioner's targeted dumping allegation for LG. In this amended allegation, the petitioner

[3] We find that it is appropriate to base the margin for those U.S. sales for which NV is based on CV on AFA because home market sales of kimchi refrigerators would be used to determine CV profit and selling expenses.

defined the time period over which targeted dumping occurred as the fourth calendar quarter of 2010. The petitioner's original allegation covered essentially the same period, but it defined the fourth quarter by reference to weeks. As noted above in the ''Background'' section, because the petitioner's original allegation was based on data which was superseded by LG's supplemental response, we have accepted this amendment for purposes of the preliminary determination.

A. Targeted Dumping Test

We conducted time-period targeted dumping analyses for LG and Samsung using the methodology we adopted in *Nails* and most recently articulated in *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia: Final Determination of Sales at Less Than Fair Value,* 75 FR 59223 (September 27, 2010), and accompanying Issues and Decision Memorandum at Comment 1 (*Coated Paper*); and *Multilayered Wood Flooring From the Peoples' Republic of China: Final Determination of Sales at Less Than Fair Value,* 76 FR 64318 (October 18, 2011) (*Wood Flooring*), and accompanying Issues and Decision Memorandum at Comment 4.

The methodology we employed involves a two-stage test; the first stage addresses the pattern requirement and the second stage addresses the significant-difference requirement. *See* section 777A(d)(1)(B)(i) of the Act, *Nails, Coated Paper,* and *Wood Flooring.* In this test we made all price comparisons on the basis of identical merchandise (*i.e.,* by control number or CONNUM). We based all of our targeted dumping calculations on the U.S. net price which we determined for U.S. sales by LG and Samsung in our standard margin calculations. For further discussion of the test and results, see Memorandum to the File from Henry Almond, Senior Analyst, entitled, ''Calculations Performed for LGE for the Preliminary Determination in the Antidumping Duty Investigation of Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea'' (LG Calculation Memo); and the Samsung Calculation Memo. As a result of our analysis, we preliminarily determine that there is a pattern of U.S. prices for comparable merchandise that differs significantly among certain time periods for LG and Samsung in accordance with section 777A(d)(1)(B)(i) of the Act and our current practice as discussed in *Nails, Wood Flooring,* and *Coated Paper.*

B. Price Comparison Method

Section 777A(d)(1)(B)(ii) of the Act states that the Department may compare the weighted average of the NV to export prices (EPs) (or constructed export prices (CEPs)) of individual transactions for comparable merchandise if the Department explains why differences in the patterns of EPs (or CEPs) cannot be taken into account using the average-to-average methodology. As described above, we preliminarily determine that, with respect to sales by Samsung and LG, for certain time periods there was a pattern of prices that differed significantly.

For both LG and Samsung, we find that these differences cannot be taken into account using the average-to-average methodology because the average-to-average methodology conceals differences in the patterns of prices between the targeted and non-targeted groups by averaging low-priced sales to the targeted group with high-priced sales to the non-targeted group. Therefore, for the preliminary determination, we find that the standard average-to-average methodology does not take into account LG's and Samsung's price differences because the alternative average-to-transaction methodology yields a material difference in the margin. Accordingly, for this preliminary determination we applied the average-to-transaction methodology to all U.S. sales made by LG and Samsung. *See* the LG Calculation Memo and the Samsung Calculation Memo for further discussion.

Fair Value Comparisons

To determine whether sales of bottom mount refrigerators from Korea to the United States were made at LTFV, we compared the EP or CEP to the NV, as described in the ''Export Price/Constructed Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average EPs and CEPs to weighted-average NVs for Daewoo, and in accordance with section 777A(d)(1)(B) of the Act, we compared transaction-specific EPs and CEPs to weighted-average NVs for LG and Samsung.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents in Korea during the POI that fit the description in the ''Scope of Investigation'' section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. Where there were no sales of identical or similar merchandise, we made product comparisons using CV.

In making product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: Completed unit or subassembly, unit type, calculated volume, number of compartments, refrigerator door/drawer configuration, other external door/drawer configurations, icemaker and water dispenser feature, door finish, type of compressor, number of evaporators, type of user interface, existence of a through-the-door feature, existence of an interior temperature-controlled sub-compartment, and existence of thin-wall insulation panels.

Export Price/Constructed Export Price

For certain U.S. sales made by Daewoo, LG, and Samsung, we used the EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States before the date of importation by the producer or exporter of the subject merchandise outside the United States, and the use of the CEP methodology was not otherwise warranted based on the facts of record.

For the remaining U.S. sales made by Daewoo, LG, and Samsung, we calculated CEP in accordance with section 772(b) of the Act because the subject merchandise was first sold (or agreed to be sold) in the United States after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

A. Daewoo

With respect to EP sales, we based the starting price on the packed prices to unaffiliated purchasers in the United States. We increased the starting price by the amount of duty drawback reported by Daewoo. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these expenses included, where appropriate, foreign inland freight, foreign brokerage and handling, freight subcontractor service fees, international

freight, and marine insurance. Regarding foreign inland freight, Daewoo used an affiliated company to arrange delivery of its merchandise to the United States. Because Daewoo's affiliate did not provide the same service to unaffiliated parties, nor did Daewoo use unaffiliated companies to arrange its deliveries, we were unable to test the arm's-length nature of the fees paid by Daewoo. Therefore, we based these expenses on the affiliate's costs. For further discussion, see the Memorandum to the File from David Crespo, Analyst, entitled, ''Calculations Performed for Daewoo Electronics Corporation for the Preliminary Determination in the Antidumping Duty Investigation of Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea'' (Daewoo Calculation Memo) dated October 26, 2011.

We based CEP on the packed delivered prices to unaffiliated purchasers in the United States. We increased the starting price by the amount of duty drawback reported by Daewoo. We made deductions for movement expenses for Daewoo's CEP transactions, as well, in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling, freight subcontractor service fees (adjusted as noted above), international freight, marine insurance, U.S. duties, and U.S. brokerage and handling.

In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.,* imputed credit expenses and warranties), and indirect selling expenses. We recalculated Daewoo's U.S. credit expenses to base them on its U.S. affiliate's revised U.S. dollar borrowing rate obtained from page 14 of Daewoo's October 4, 2011, response. For further discussion, see the Daewoo Calculation Memo.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Daewoo on its sales of the subject merchandise in the United States and the profit associated with those sales.

B. LG

LG reported certain U.S. sales of refurbished merchandise. Because these sales were unusual and represented an insignificant quantity of total U.S. sales, we disregarded them for purposes of our analysis.

With respect to EP sales, we based the starting price on the packed prices to unaffiliated purchasers in the United States. We increased the starting price by the amount of billing adjustments and duty drawback reported by LG. We made deductions for discounts and rebates, as appropriate. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these expenses included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, and marine insurance. Regarding foreign inland freight, LG used an affiliated company to arrange delivery of its merchandise to the port of exportation. Because LG's affiliate did not provide the same service to unaffiliated parties, nor did LG use unaffiliated companies for its deliveries, we were unable to test the arm's-length nature of the expenses paid by LG. Therefore, we based these expenses on the affiliate's costs. For further discussion, see the LG Calculation Memo dated October 26, 2011.

We based CEP on the packed prices to unaffiliated purchasers in the United States. We increased the starting price by the amount of billing adjustments and duty drawback reported by LG. We made deductions for discounts and rebates, as appropriate.

We made deductions for movement expenses for LG's CEP transactions, in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight (adjusted as noted above), foreign brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, U.S. warehousing, and U.S. inland freight expenses.

In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.,* imputed credit expenses, bank charges, advertising expenses, and warranty expenses), and indirect selling expenses (including inventory carrying costs and other indirect selling expenses). We recalculated LG's U.S. inventory carrying costs using the company's reported cost of manufacturing (COM), revised as stated below. For further discussion, see the ''Cost of Production Analysis'' section of the notice.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by LG on its sales of the subject merchandise in the United States and the profit associated with those sales. *See* the LG Calculation Memo for further discussion.

D. Samsung

In accordance with the Department's policy, Samsung reported the earlier of the date of invoice or shipment as its date of sale for both EP and CEP sales made during the POI. However, Samsung did not report its actual date of shipment from the factory, but rather it reported the bill of lading date. Samsung's methodology is not consistent with the Department's practice of using the date of shipment from the factory as the date of shipment. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Narrow Woven Ribbons With Woven Selvedge From Taiwan,* 75 FR 41804 (July 19, 2010), and accompanying Issues and Decision Memorandum at Comment 5. Because Samsung did not provide the number of days between shipment from the factory and shipment from the port, we have accepted the dates reported as facts available for purposes of the preliminary determination, pursuant to section 776(A)(2)(B) of the Act. However, following the issuance of the preliminary results, we intend to request that Samsung report its shipment dates from the factory, as well as any additional sales of merchandise shipped from the factory during the POI but invoiced afterwards. Should Samsung provide the Department with that information in a timely fashion, we intend to use it for purposes of the final determination.

In addition, Samsung reported certain U.S. sales of defective merchandise. Because these sales were unusual and represented an insignificant quantity of total U.S. sales, we disregarded them for purposes of our analysis.

With respect to EP, we based the starting price on the packed prices to unaffiliated purchasers in the United States. We increased the starting price by the amount of duty drawback reported by Samsung. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign loading expenses, and foreign brokerage and handling expenses. Regarding foreign inland freight and loading expenses, Samsung used an affiliated company to load the merchandise into containers and arrange its delivery to the port of

exportation. Because Samsung's affiliate did not provide the same services to unaffiliated parties, nor did Samsung use unaffiliated companies for these services, we were unable to test the arm's-length nature of the fees paid by Samsung. Therefore, we based these expenses on the affiliate's costs. For further discussion, see the Samsung Calculation Memo.

We based CEP on the packed prices to unaffiliated purchasers in the United States. We increased the starting price by the amount of billing adjustments and duty drawback reported by Samsung. We made deductions for discounts and rebates, as appropriate. We reclassified certain early payment ''rebates'' as discounts because these amounts were established in accordance with Samsung's normal payment terms set forth on the invoice.

Regarding Samsung's remaining rebates, in a supplemental questionnaire dated September 1, 2011, we instructed Samsung to report its rebates on as customer-specific, product-specific and time period-specific basis as possible. However, Samsung declined to report its U.S. rebates as instructed. While Samsung reported its U.S. rebates on a customer-specific basis, based on information reported in Samsung's supplemental questionnaire responses, we believe that it is possible for Samsung to report certain rebates (*i.e.,* REBATE3U and REBATE4U) on a product-specific and possibly a time period-specific basis, as well.[4] Therefore, pursuant to section 776(a)(2)(B) of the Act, we find that Samsung failed to provide information in the form and manner requested by the Department and that it is appropriate to resort to facts otherwise available to account for the unreported information. Moreover, we find that, pursuant to section 776(b) of the Act, an adverse inference is appropriate because: (1) Samsung had the necessary information within its control and did not report this information; and (2) it failed to put forth the maximum effort to provide the requested information. Therefore, for this preliminary determination, pursuant to section 776(b) of the Act, we find that it is appropriate to apply AFA with respect to these rebates. Specifically, as AFA, we recalculated both of these rebates by assigning the highest customer-specific rebate percentage reported for each rebate program to all POI sales that were eligible for a rebate under that particular rebate program. We intend to request additional information concerning Samsung's rebate programs, as well as its rebate reporting methodologies, prior to verification for consideration in the final determination.

We made deductions for movement expenses for Samsung's CEP transactions, in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign loading expenses, foreign brokerage and handling expenses, ocean freight, marine insurance, U.S. customs duties (including merchandise processing fees and customs broker fees), U.S. warehousing expenses, U.S. inland insurance expenses, and U.S. inland freight expenses. Regarding foreign inland freight, foreign loading expenses, and ocean freight, Samsung used the affiliated company referenced above to provide the associated freight services. Therefore, we adjusted the freight expenses reported for CEP sales in the same manner as was done for EP sales.

In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.,* imputed credit expenses, advertising expenses, bank charges, and warranty expenses), and indirect selling expenses (including inventory carrying costs and other indirect selling expenses). Regarding credit expenses, Samsung reported the dates that its customers paid for the merchandise based on the payment terms of each sale; however, documentation on the record shows that payment may occur after this date. Because Samsung did not report actual payment dates for its U.S. sales and its reported methodology was inaccurate based on record evidence, pursuant to section 776(a)(2)(B) of the Act, as facts available, we increased Samsung's credit period by the additional time between the end of the payment terms and the actual payment for the sale for which Samsung provided this information, and we recalculated credit expenses using this revised information. For further discussion, see the Samsung Calculation Memo.

Regarding indirect selling expenses, we revised the calculation ratio for Samsung's U.S. affiliate to remove certain offsets which were not adequately substantiated in Samsung's response. We also recalculated Samsung's U.S. inventory carrying costs using the company's reported COM, revised as stated below. For further discussion, see the ''Cost of Production Analysis'' section of the notice and the Samsung Calculation Memo.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Samsung and its affiliate on their sales of the subject merchandise in the United States and the profit associated with those sales. *See* the Samsung Calculation Memo for further discussion.

Normal Value

A. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.,* the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared each respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act.

In this investigation, we determined that Daewoo's, LG's, and Samsung's aggregate volume of home market sales of the foreign like product was greater than five percent of the aggregate volume of U.S. sales of the subject merchandise. Therefore, we used home market sales as the basis for NV in accordance with section 773(a)(1)(B) of the Act.

B. Affiliated Party Transactions and Arm's-Length Test

During the POI, Daewoo, LG, and Samsung sold foreign like product to affiliated customers. To test whether the sales made by Daewoo and certain sales by Samsung were made at arm's-length prices, we compared, on a product-specific basis, the starting prices of sales to affiliated and unaffiliated customers, net of all applicable billing adjustments, discounts and rebates, movements charges, direct selling expenses and packing expenses. Where the price to the affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to unaffiliated parties, we determined that sales made to the affiliated party were at arm's-length. *See* 19 CFR 351.403(c); *see also Stainless Steel Sheet and Strip in Coils From Japan: Preliminary Results of Antidumping Duty Administrative Review,* 74 FR 39615 (August 7, 2009), unchanged in *Stainless Steel Sheet and Strip in Coils From Japan: Final Results of Antidumping Duty Administrative Review,* 75 FR 6631 (February 10, 2010).

[4] *See, e.g.,* Exhibit 12 of Samsung's September 29, 2011, supplemental questionnaire response.

Sales to affiliated customers in the home market that were not made at arm's-length prices were excluded from our analysis because we considered them to be outside the ordinary course of trade. *See* section 771(15) of the Act and 19 CFR 351.102(b)(35).

Because sales of foreign like product to certain of Samsung's affiliated resellers failed the arm's length test, Samsung reported its home market sales by these resellers. Therefore, we used Samsung's reported downstream home market sales data for all affiliates failing the arm's length test in our calculations for the preliminary determination. Where sales to one or more affiliates passed the arm's length test, we included these sales in our analysis, rather than the affiliate's downstream sales.

With respect to LG, this respondent reported downstream sales by its affiliated reseller, rather than both sales to the affiliate and the affiliate's downstream sales. Therefore, we used the downstream sales in our analysis for purposes of the preliminary determination.

C. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id; see also Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part,* 75 FR 50999, 51001 (August 18, 2010), and accompanying Issues and Decision Memorandum at Comment 7 (*OJ from Brazil*). In order to determine whether the comparison market sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.,* the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.,* NV based on either home market or third country prices),[5] we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Tech., Inc.* v. *United States,* 243 F.3d 1301, 1314–16 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.,* no LOT adjustment was possible), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See, e.g., OJ from Brazil,* 75 FR at 51001.

In this investigation, we obtained information from Daewoo, LG, and Samsung regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution. Company-specific LOT findings are summarized below.

Daewoo

Daewoo reported that it made EP and CEP sales through a single channel of distribution (*i.e.,* sales to distributors), and performed the following selling functions for sales to U.S. customers: Sales forecasting, order input/processing, freight and delivery services, warranty services, and packing. These selling activities can be generally grouped into four selling function categories for analysis: (1) Sales and marketing; (2) freight and delivery services; (3) inventory maintenance and warehousing; and (4) warranty and technical support. Accordingly, based on the selling function categories, we find that Daewoo performed sales and marketing, freight and delivery services, and warranty and technical support for U.S. sales. Because all sales in the United States are made through a single distribution channel (*i.e.,* sales to distributors) and the selling activities to Daewoo's customers did not vary within this channel, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the home market, Daewoo reported that it made sales to retailers and end users. Daewoo reported that its home market sales were made through a single channel of distribution and that it performed the following selling functions for sales to all home market customers: Sales forecasting, strategic/economic planning, personnel training/exchange, engineering services, market research, sales promotion, advertising, order input/processing, technical assistance, direct sales personnel, sales/marketing, freight and delivery services, inventory maintenance, warranty services, and packing. Additionally, for sales to retailers, Daewoo also provided cash discounts and distributor/dealer training. These selling activities can be generally grouped into four selling function categories for analysis: (1) Sales and marketing; (2) freight and delivery services; (3) inventory maintenance and warehousing; and (4) warranty and technical support. Accordingly, we find that Daewoo performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical support at the same relative level of intensity for all customers in the home market. Because all sales in the home market sales are made through a single distribution channel and the selling activities to Daewoo's customers did not vary significantly within this channel, we preliminarily determine that there is one LOT in the home market for Daewoo.

Finally, we compared the U.S. LOT to the home market LOT and found that the selling functions Daewoo performed for home market customers are more advanced than those performed for its U.S. customers. This difference is sufficient to determine that the U.S. LOT is different from the home market LOT. Therefore, based on the totality of the facts and circumstances, we preliminarily determine that sales to the home market during the POI were made at a different LOT than sales to the United States. Additionally, because the home market LOT is at a more advanced stage of distribution than Daewoo's U.S. LOT and no LOT adjustment is possible, a CEP offset is warranted.

LG

LG reported that it made U.S. sales through three channels of distribution (*i.e.,* direct EP sales to original equipment manufacturer (OEM) customers, CEP sales to OEM customers,

[5] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, general and administrative (G&A) expenses, and profit for CV, where possible.

and CEP sales out of inventory of LG branded products). For all three channels of distribution, LG reported that it performed the following selling functions in Korea for sales to U.S. customers: Sales and marketing support, market research, advertising, order processing, direct sales personnel, freight and delivery services, warranty and after sales services, and packing. These selling activities can be generally grouped into four selling function categories for analysis: (1) Sales and marketing; (2) freight and delivery services; (3) inventory maintenance and warehousing; and (4) warranty and technical support. Accordingly, based on the selling function categories, we find that LG performed sales and marketing, freight and delivery services, and warranty and technical support for U.S. sales. Although LG reported sales through three different channels of distribution, because the selling functions performed by LG in Korea do not differ between channels we preliminarily determine that there is one LOT in the U.S. market.

With respect to the home market, LG reported that it also made sales through three channels of distribution (*i.e.,* sales to construction companies, sales to unaffiliated retailers, and sales to unaffiliated retailers for which LG was responsible for delivery and installation at the end user's residence). Additionally, LG reported a fourth channel of distribution for sales made to unaffiliated end user customers by its affiliated retailer, HiPlaza.

LG reported that it performed the following selling functions for sales to all home market customers: Sales forecasting, product development/market research, advertising, sales promotion, packing, inventory maintenance, order input, direct sales personnel/sales support, warranty services, payment of commissions, and arrangement of freight and delivery. In addition to these activities, LG reported that its affiliated retailer maintained an extensive retail presence in Korea during the POI and performed the following additional selling functions for its sales: Sales forecasting, advertising, sales promotion, order input, direct sales personnel/sales support, and the payment of commissions.

These selling activities can be generally grouped into four selling function categories for analysis: (1) Sales and marketing; (2) freight and delivery services; (3) inventory maintenance and warehousing; and (4) warranty and technical support. Accordingly, we find that LG performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing at the same relative level of intensity for three of its reported sales channels in the home market. Regarding sales made by HiPlaza, we find that it also performed substantial sales and marketing activities for sales to its unaffiliated customers. These activities are sufficient to determine that the sales made by HiPlaza were at a more advanced level of trade than those made by LG. Accordingly, based on the totality of the facts and circumstances, we preliminarily determine that LG made sales at two levels of trade in the home market.

Finally, we compared the U.S. LOT to the home market LOTs and found that the selling functions LG performed for home market customers (at both home market LOTs) are more advanced than those performed for its U.S. customers. This difference is sufficient to determine that LG's U.S. LOT is different from the home market LOTs. Therefore, based on the totality of the facts and circumstances, we preliminarily determine that sales to the home market during the POI were made at different LOTs than sales to the United States. Additionally, because the home market LOTs are at a more advanced stage of distribution than LG's U.S. LOT and no LOT adjustment is possible, a CEP offset is warranted.

Samsung

Samsung reported that it made EP and CEP sales through two channels of distribution (*i.e.,* direct sales to unaffiliated customers and CEP sales out of inventory). Samsung reported that it packed subject merchandise in Korea for sales to both its EP and CEP customers. In addition, Samsung reported that it performed sales/marketing support and market research for its CEP sales, while it performed order input/processing for its EP sales. Moreover, Samsung sold subject merchandise to its U.S. affiliate during the POI (and thus it processed orders for CEP sales), and the sales listing shows that Samsung delivered subject merchandise to U.S. customers. These selling activities can be generally grouped into four selling function categories for analysis: (1) Sales and marketing; (2) freight and delivery services; (3) inventory maintenance and warehousing; and (4) warranty and technical support. Accordingly, based on the selling function categories, we find that Samsung performed freight and delivery and sales and marketing activities for U.S. sales. Further, while Samsung reported sales through two different channels of distribution, because the selling functions performed by Samsung in Korea do not differ significantly between channels we preliminarily determine that there is one LOT in the U.S. market.

With respect to the home market, Samsung reported that it made sales through two channels of distribution (*i.e.,* sales to unaffiliated customers and sales to affiliated resellers). Additionally, Samsung reported a third channel of distribution for sales made to unaffiliated end users by its affiliated resellers. For its sales, Samsung reported that it performed the following selling functions for sales to all home market customers: Sales forecasting, strategic/economic planning, personnel training/exchange, provision of engineering services, advertising, distributor/dealer training, packing, inventory maintenance, order input/processing, employment of direct sales personnel, sales/marketing support, market research, technical assistance, provision of rebates and cash discounts, payment of commissions, provision of warranty services, provision of guarantees, provision of after-sales services, and provision of freight and delivery services. In addition to these activities, Samsung reported that its affiliated resellers maintained an extensive retail presence in Korea during the POI and performed the following additional selling functions for sales to the unaffiliated end users: Sales forecasting, strategic/economic planning, personnel training/exchange, advertising, sales promotion, inventory maintenance, order input/processing, employment of direct sales personnel, sales/marketing support, market research, provision of after-sales services, and provision of freight and delivery services.

These selling activities can be generally grouped into four selling function categories for analysis: (1) Sales and marketing; (2) freight and delivery services; (3) inventory maintenance and warehousing; and (4) warranty and technical support. Accordingly, we find that Samsung performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical support at the same relative level of intensity for both of its reported sales channels in the home market. Regarding sales made by Samsung's affiliated resellers, we find that the affiliated resellers performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for sales to its unaffiliated customers. The additional selling functions performed by the affiliated resellers are sufficient

to determine that the affiliated resellers' home market sales were at a more advanced level of trade than those home market sales made by Samsung. Accordingly, based on the totality of the facts and circumstances, we preliminarily determine that Samsung made sales at two LOTs in the home market.

Finally, we compared the U.S. LOT to the home market LOTs and found that the selling functions Samsung performed for home market customers (in both home market LOTs) are more advanced than those performed for its U.S. customers. This difference is sufficient to determine that the U.S. LOT is different from either of the home market LOTs. Therefore, based on the totality of the facts and circumstances, we preliminarily determine that sales to the home market during the POI were made at different LOTs than sales to the United States. Additionally, because Samsung's home market LOTs are at a more advanced stage of distribution than its U.S. LOT and no LOT adjustment is possible, a CEP offset is warranted.

D. Cost of Production Analysis

Based on our analysis of an allegation contained in the petition, we found that there were reasonable grounds to believe or suspect that Daewoo's, LG's, and Samsung's sales of bottom mount refrigerators in the home market were made at prices below their COP. Accordingly, pursuant to section 773(b) of the Act, we initiated a country-wide sales-below-cost investigation to determine whether Daewoo's, LG's, and Samsung's sales were made at prices below their respective COPs.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for G&A, interest expenses, and home market packing costs. *See* ''Test of Home Market Sales Prices'' section below for treatment of home market selling expenses. Based on the review of record evidence, none of the respondents appeared to experience significant changes in the cost of manufacturing during the POI. Therefore, we followed our normal methodology of calculating an annual weighted-average cost.

We relied on the COP data submitted by Daewoo, LG, and Samsung. For LG and Samsung, we made the following adjustments to the companies' COP data: [6]

A. LG

- We analyzed LG's transactions with certain affiliated parties in accordance with section 773(f)(2) of the Act (the transactions disregarded rule) to determine whether the prices paid for the inputs used in the production of the merchandise under consideration reflect arm's-length prices. Based on our analysis, we found that the sum of the extended weighted-average prices paid by LG for inputs purchased from its affiliate LG Chemical was less than the sum of the extended weighted-average market prices. As such, we increased LG's reported COM to reflect market prices for the input supplied by LG Chemical.
- We revised LG's reported R&D expense ratio for the home appliance division to exclude internal transfers from the denominator of the ratio.
- We also revised the denominator of LG's common R&D expense ratio to reflect LG's unconsolidated cost of sales (COS) rather than consolidated COS.
- We revised the denominator of LG's G&A expense ratio to exclude unconsolidated scrap offsets and packing expenses.

See Memorandum to Neal Halper from Heidi Shriefer entitled, ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination—LG Electronics Inc. and LG Electronics USA, Inc.,'' dated October 26, 2011.

B. Samsung

- We analyzed Samsung's transactions with certain affiliated parties in accordance with the transactions disregarded rule to determine whether the prices paid for the inputs used in the production of the merchandise under consideration reflect arm's-length prices. Based on our analysis, we found that the sum of the extended weighted-average prices paid by Samsung Gwangju Electronics Co., Ltd. (Samsung Gwangju), the producer of the merchandise under consideration, for inputs purchased from an affiliated party was less than the sum of the extended weighted-average market prices. As such, we increased Samsung Gwangju's reported COM to reflect market prices for inputs supplied by these affiliated parties.
- We reclassified the offset reported for Samsung Gwangju's sales of scrap from Samsung Gwangju's G&A expenses to the COM. We recalculated Samsung's G&A expenses, originally calculated by Samsung based on the income statements of its Digital Appliance Division, based on Samsung's fiscal year 2010 audited unconsolidated financial statements.
- We revised the costs reported in Samsung's October 3, 2011, COP data file to exclude packing expenses. We also revised the calculations of Samsung Gwangju's R&D and G&A expense ratios, used to calculate the per-unit expenses, to exclude packing costs from the denominators of those ratios. Likewise, we revised the denominators of Samsung's R&D and G&A expense ratios to exclude packing expenses.

See Memorandum to Neal Halper from LaVonne Clark entitled, ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination—Samsung Electronic Co., Ltd. and Samsung Electronics America, Inc.,'' dated October 26, 2011.

2. Test of Home Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable billing adjustments, discounts and rebates, movement charges, and actual direct and indirect selling expenses. In determining whether to disregard home market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made: (1) Within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the respondent's sales of a given product during the POI are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances the below-cost sales were not made in substantial quantities. Where 20 percent or more of the respondent's sales of a given product during the POI are at prices less than the COP, we disregard those sales of that product, because we determine that in such instances the

[6] We have preliminarily determined that a portion of LG's and Samsung's home appliance research and development (R&D) costs benefit the operations in Mexico. As a result, these respondents' submitted R&D costs allocated to Korea should be adjusted downward. The information needed to make this adjustment is not currently on the record; however, we intend to request the necessary information for consideration in the final determination.

below-cost sales represent substantial quantities within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that, for certain specific products, more than 20 percent of Daewoo's, LG's, and Samsung's home market sales during the POI were at prices less than the COP and, in addition, the below-cost sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D. Calculation of Normal Value Based on Comparison Market Prices

LG

We calculated NV based on delivered prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for discounts and rebates. We also made deductions for movement expenses, including inland freight, handling, and warehousing, under section 773(a)(6)(B)(ii) of the Act. Regarding inland freight, handling, and warehousing, LG paid an affiliated company to arrange unaffiliated subcontractors to perform these services. Because LG's affiliate did not provide the same service to unaffiliated parties, nor did LG use unaffiliated companies for these services, we were unable to test the arm's-length nature of the expenses paid by LG. Therefore, we based these expenses on the affiliate's costs. *See* the LG Calculation Memo for further discussion.

For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for direct selling expenses (including bank charges, direct advertising and promotional expenses, and warranties), and commissions. Regarding advertising expenses, LG characterized certain home market advertising expenses as being direct in nature; however, we have reclassified these expenses as indirect because they are not product-specific (*i.e.,* they relate to a broader class of merchandise than is covered by this investigation). *See* the LG Calculation Memo for further discussion.

For comparisons to CEP sales, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we deducted from NV direct selling expenses (*i.e.,* imputed credit expenses, bank charges, direct advertising and promotional expenses, and warranties).

For all price-to-price comparisons, where commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV for the lesser of: (1) The amount of commission paid in the comparison market; or (2) the amount of indirect selling expenses (including inventory carrying costs) incurred in the comparison market. *See* 19 CFR 351.410(e).

Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act.

Finally, for comparisons to CEP sales, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP. We reclassified certain advertising expenses as indirect, as discussed above. We also reclassified certain expenses incurred by LG's affiliated retailer in maintaining its retail presence in the Korean market as indirect selling expenses because these expenses related to rent, sales staff salaries, and other overhead expenses and did not result from or bear a direct relationship to particular sales. In addition, we recalculated LG's home market inventory carrying costs using the company's reported COM, revised as stated above. *See* the LG Calculation Memo for further discussion.

Samsung

We calculated NV based on delivered prices to unaffiliated customers and/or prices to affiliated customers that we determined to be at arm's-length. We made deductions, where appropriate, from the starting price for rebates and billing adjustments. We disallowed Samsung's reported early payment discounts because Samsung failed to calculate these discounts on a transaction-specific basis as instructed by the Department. We also disallowed certain rebates which were not calculated in accordance with the stated rebate program terms.

Finally, regarding an additional rebate program, in a supplemental questionnaire dated September 20, 2011, we instructed Samsung to report this rebate on a customer-specific, model-specific, and time-period-specific basis and it failed to do so. Based on information reported in Samsung's supplemental questionnaire responses, we believe that it is possible for Samsung to report these rebates on a customer-, model-, and time-period-specific basis. Therefore, as with U.S. rebates, pursuant to section 776(a)(2)(B) of the Act, we find that Samsung failed to provide information in the form and manner requested by the Department and that it is appropriate to resort to facts otherwise available to account for the unreported information. Moreover, we find that an adverse inference, pursuant to section 776(b) of the Act, is appropriate because: (1) Samsung had the necessary information within its control and did not report this information; and (2) it failed to put forth the maximum effort to provide the requested information. Therefore, for this preliminary determination, we are applying AFA with respect to these rebates. As AFA, we based the amounts of this additional rebate program on the lowest percentage calculated for any home market customer. We intend to request additional information concerning Samsung's rebate programs, as well as its rebate reporting methodologies, prior to verification for consideration in the final determination. *See* the Samsung Calculation Memo for further discussion.

We also made deductions for movement expenses, including inland freight and warehousing expenses, under section 773(a)(6)(B)(ii) of the Act. Regarding inland freight and warehousing expenses, these expenses were charged by an affiliated company in the home market. Because Samsung's affiliate did not provide the same service to unaffiliated parties, nor did Samsung use unaffiliated companies for these services, we were unable to test the arm's-length nature of the expenses paid by Samsung. Therefore, we based these expenses on the affiliate's costs. Finally with respect to inland freight, we reclassified certain expenses as indirect selling expenses because they were related to merchandise returns. *See* the Samsung Calculation Memo for further discussion.

For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for credit expenses, bank charges, and warranties. We recalculated EP credit expenses to base the credit period on the payment terms offered to the customer because Samsung's explanation of its payment date was not consistent with the payment terms.

Regarding warranties, we reclassified a portion of warranty expenses as indirect because they appeared to be unrelated to materials or labor expenses. Further, we based these expenses on the actual cost of Samsung's affiliated warranty provider because Samsung was unable to demonstrate that the expenses paid to the affiliate were at arm's length. For further discussion, see the Samsung Calculation Memo.

For comparisons to CEP sales, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we deducted from NV direct selling expenses (*i.e.,* imputed credit expenses and warranties (adjusted as noted above)).

For all price-to-price comparisons, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act. We based the packing expenses for downstream sales on the amounts reported for Samsung's direct home market sales because Samsung did not separately report these expenses in its downstream sales database.

Finally, for comparisons to CEP sales, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP. We reclassified home market advertising expenses as indirect because they were brand-, but not product-, specific. We also recalculated Samsung's home market inventory carrying costs using the company's reported COM, revised as stated above. For further discussion, see the ''Cost of Production Analysis'' section of the notice.

E. Calculation of Normal Value Based on Constructed Value

In accordance with section 773(a)(4) of the Act, for all of Daewoo's sales and for certain refrigerator models sold by LG, we based NV on CV because there were no sales in the home market in the ordinary course of trade that could be reasonably compared to those U.S. sales.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of the respondents' cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses, profit, and U.S. packing costs. We calculated the cost of materials and fabrication, G&A and interest based on the methodology described in the ''Calculation of COP'' section of this notice.

For comparisons to EP, we made a circumstance-of-sale adjustment by deducting home market direct selling expenses and adding U.S. direct selling expenses. For comparisons to CEP, we deducted from CV the weighted-average home market direct selling expenses. We adjusted LG's direct selling expenses using the same methodology noted in the ''Calculation of Normal Value Based on Comparison Market Prices'' section of this notice, above. With respect to Daewoo, we adjusted the reported home market sales data to: (1) Reclassify certain expenses reported as imputed credit expenses to treat them as non-imputed direct selling expenses; and (2) recalculate indirect selling expenses incurred in Korea to include certain bad debt expenses which had been excluded from the calculation. *See* the Daewoo Calculation Memorandum for further information on these adjustments.

Finally, for comparisons to CEP sales, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses on the comparison market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Critical Circumstances

On July 29, 2011, the petitioner filed a timely allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206, that critical circumstances exist with respect to imports of the merchandise under investigation. In accordance with 19 CFR 351.206(c)(2)(i), because the petitioner submitted its critical circumstances allegation more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary critical circumstances determination not later than the date of the preliminary determination.

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise under investigation have been ''massive,'' the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that an increase in imports of 15 percent during the ''relatively short period'' of time may be considered ''massive.'' Section 351.206(i) of the Department's regulations defines ''relatively short period'' as normally being the period beginning on the date the proceeding begins (*i.e.,* the date the petition is filed) and ending at least three months later. The regulations also provide, however, that if the Department finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.

In determining whether the above statutory criteria have been satisfied, we examined the evidence presented in the petitioner's submission of July 29, 2011, the ITC preliminary injury determination, and the respondents' shipment volume submissions.

To determine whether there is a history of injurious dumping of the merchandise under investigation, in accordance with section 733(e)(1)(A)(i) of the Act, the Department normally considers evidence of an existing antidumping duty order on the subject merchandise in the United States or elsewhere to be sufficient. *See Preliminary Determination of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova,* 65 FR 70696 (November 27, 2000). The petitioner notes that in 2001, after finding both dumping and injury, New Zealand imposed antidumping duties on the subject merchandise produced in Korea. However, this order was terminated in 2006. Moreover, the petitioner did not identify any additional proceedings with respect to Korean-origin products, nor are we

aware of any antidumping duty order in any country on bottom mount refrigerators from Korea. For this reason, the Department does not find a history of injurious dumping of the subject merchandise from Korea pursuant to section 733(e)(1)(A)(i) of the Act.

To determine whether the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales in accordance with section 733(e)(1)(A)(ii) of the Act, the Department normally considers margins of 25 percent or more for EP sales or 15 percent or more for CEP transactions sufficient to impute knowledge of dumping. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Lined Paper Products From Indonesia,* 71 FR 15162 (March 27, 2006) unchanged in *Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Lined Paper Products From Indonesia,* 71 FR 47171 (August 16, 2006).

For Daewoo and LG, we preliminarily determine that there is not a sufficient basis to find that importers should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales pursuant to section 733(e)(1)(A)(ii) of the Act, because the calculated margins were not 25 percent or more for EP sales, or 15 percent or more for CEP sales. Because the knowledge criterion has not been met for these respondents, we have not addressed the second criterion of whether or not imports were massive in the comparison period when compared to the base period.

With respect to Samsung, however, we preliminarily determine that there is a sufficient basis to find that importers should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales pursuant to section 733(e)(1)(A)(ii) of the Act, because Samsung's calculated margin exceeded 25 percent or more for EP sales, or 15 percent or more for CEP sales. In addition, for the companies covered by the ''All Others'' rate, we calculated a preliminary margin of 18.15 percent, which meets the 15-percent threshold necessary to impute knowledge of dumping for CEP sales, which are the vast majority of the sales on which the calculation of the ''All Others'' rate is based. Therefore, because the knowledge criterion has been met for Samsung and the ''All Others'' rate companies, we must address the second criterion of whether imports were massive in the comparison period when compared to the base period.

In determining whether there are ''massive imports'' over a ''relatively short period,'' pursuant to section 733(e)(1)(B) of the Act, the Department normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.,* the ''base period'') to a comparable period of at least three months following the filing of the petition (*i.e.,* the ''comparison period''). Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.

The Department requested and obtained from each of the respondents monthly shipment data from January 2008 to July 2011. To determine whether imports of subject merchandise have been massive over a relatively short period, we compared, pursuant to 19 CFR 351.206(h)(1)(i), Samsung's export volumes for the four months before the filing of the petition (*i.e.,* December 2010—March 2011) to those during the four months after the filing of the petition (*i.e.,* April through July 2011). These periods were selected based on the Department's practice of using the longest period for which information is available from the month that the petition was filed through the effective date of the preliminary determination. According to the monthly shipment information, we found the volume of shipments of bottom mount refrigerators increased by more than 15 percent for Samsung.

In determining whether imports for the companies subject to the ''All Others'' rate were massive, we relied on the experience of Daewoo, LG, and Samsung. Because the volume of imports for Daewoo, LG, and Samsung increased by more than 15 percent from April to July 2011 when compared to the import volume in the base period of December 2010 to March 2011, we find that imports for the companies subject to the ''All Others'' rate also increased by more than 15 percent.

For purposes of our ''massive imports'' determination, we also considered the impact of seasonality on imports of bottom mount refrigerators. Based on our analysis of the company-specific shipment data reported for 2008, 2009, 2010, and January–July 2011, we find that there is a consistent pattern of seasonality evidenced by a significant increase in shipments during quarters 2 and 3, in comparison to quarters 1 and 4 in each year. As a result, we find that any surge in U.S. imports of bottom mount refrigerators during the period after the filing of the petition in this investigation can be explained by seasonal trends. Therefore, we preliminarily determine that imports of bottom mount refrigerators during the comparison period were not massive in accordance with section 733(e)(1)(B) of the Act. *See* the Memorandum to James P. Maeder, Director, Office 2, from The Team entitled, ''Antidumping Duty Investigation of Bottom Mount Combination Refrigerator-Freezers from Korea—Preliminary Determination of Critical Circumstances,'' (Critical Circumstances Memo) dated October 26, 2011.

In summary, we do not find that there is a reasonable basis to believe or suspect importers had knowledge of dumping and the likelihood of material injury with respect to bottom mount refrigerators from Korea purchased by Daewoo or LG, while we find that there is a reasonable basis to believe or suspect importers had knowledge of dumping and the likelihood of material injury with respect to bottom mount refrigerators from Korea purchased from Samsung and companies covered by the ''All Others'' rate. However, we do not find that there have been massive imports of bottom mount refrigerators over a relatively short period from Samsung or the ''All Others'' rate companies due to seasonality. Given the analysis summarized above, and described in more detail in the Critical Circumstances Memo, we preliminarily determine that critical circumstances do not exist with respect to imports of bottom mount refrigerators produced in, and exported from, Korea.

Verification

As provided in section 782(i) of the Act, we will verify information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing CBP to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register.**

Consistent with our practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require a cash deposit or posting of a bond equal to the amount by which the normal value exceeds the export price

or constructed export price, less the amount of the countervailing duty determined to constitute an export subsidy. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 From India,* 69 FR 67306, 67307 (November 17, 2004). In this case, although the product under investigation is also subject to a concurrent countervailing duty investigation, the Department found no countervailing duty determined to constitute an export subsidy. *See Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea: Preliminary Negative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination,* 76 FR 55044 (September 6, 2011). Therefore, we have not offset the cash deposit rates shown below for purposes of this preliminary determination.

We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds EP or CEP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/ Manufacturer	Weighted-average margin percentage	Critical circumstances
Daewoo Electronics Corporation.	0.00	No.
LG Electronics, Inc.	4.09	No.
Samsung Electronics Co., Ltd.	32.20	No.
All Others	18.15	No.

The ''All Others'' rate is derived exclusive of all *de minimis* or zero margins and margins based entirely on adverse facts available. Specifically, this rate is based on the simple average of the margins calculated for LG and Samsung. Because we cannot apply our normal methodology of calculating a weighted-average margin due to requests to protect business-proprietary information, we find this rate to be the best proxy of the actual weighted-average margin determined for these respondents. *See, e.g., Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review, Partial Rescission, and Final No Shipment Determination,* 76 FR 41203, 41205 (July 13, 2011). For further discussion of this calculation, see the memorandum from Henry Almond, Senior Analyst, to the file entitled, ''Calculation of the All Others Rate for the Preliminary Results of the Antidumping Duty Investigation of Bottom Mount Combination Refrigerator-Freezers From Korea'', dated October 26, 2011.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Disclosure

The Department will disclose to parties the calculations performed in connection with this preliminary determination within five days of the date of publication of this notice. *See* 19 CFR 351.224(b).

Public Comment

Case briefs for this investigation must be submitted to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. *See* 19 CFR 351.309(d). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Case briefs must present all arguments that continue to be relevant to the Department's final determination, in the submitter's view. *See* 19 CFR 351.309(c)(2). Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. *See* 19 CFR 351.310(c). If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to sections 733(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: October 26, 2011.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2011–28415 Filed 11–1–11; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–839]

Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From Mexico

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

ACTION: Notice of preliminary determination of sales at less than fair value.

SUMMARY: We preliminarily determine that bottom mount combination refrigerator-freezers (bottom mount refrigerators) from Mexico are being sold, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). In addition, we preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to the subject merchandise exported from Mexico by Samsung Electronics Mexico, S.A. de C.V. (Samsung). Interested parties are invited to comment on this preliminary determination. Because we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Kate Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and