



A-201-842
Administrative Review
POR: 08/03/12- 01/31/14
Public Document
ADCVDops/II/BCS

March 2, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman 
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Large Residential Washers from Mexico: Decision Memorandum
for the Preliminary Results of the Antidumping Duty
Administrative Review; 2012-2014

I. SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on large residential washers (LRWs) from Mexico. The review covers two producers/exporters of the subject merchandise, Electrolux¹ and Samsung Electronics Mexico S.A. de C.V. (Samsung). The period of review (POR) is August 3, 2012, through January 31, 2014. We preliminarily determine that Electrolux made sales of subject merchandise at prices below normal value (NV) during the POR. In addition, we preliminarily find that no shipments of subject merchandise were made by Samsung during the POR.

II. BACKGROUND

On February 15, 2013, the Department published the AD order on LRWs from Mexico.² On February 3, 2014, the Department published a notice of opportunity to request an administrative review of the AD order on LRWs from Mexico for the period August 3, 2012, through January 31, 2014.³ On February 21, 2014, Electrolux made a timely request for an administrative review of itself. On February 24, 2014, Whirlpool Corporation (Whirlpool), a domestic producer of the subject merchandise, made a timely request that the Department conduct an administrative review of Electrolux and Samsung. On April 1, 2014, in accordance with section 751(a) of the

¹ Electrolux includes Electrolux Home Products, Corp. N.V. and Electrolux Home Products de Mexico, S.A. de C.V.

² See Large Residential Washers From Mexico and the Republic of Korea: Antidumping Duty Orders, 78 FR 11148 (February 15, 2013).

³ See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 79 FR 6159 (February 3, 2014).



Tariff Act of 1930, as amended (the Act), the Department published a notice of initiation of this AD administrative review.⁴

On April 9, 2014, the Department released U.S. Customs and Border Protection (CBP) import data with respect to the companies for which the review was requested.⁵ Also, on April 9, 2014, the Department issued its AD questionnaire to Electrolux and Samsung. On May 9, 2014, Samsung submitted a letter stating that it did not export subject merchandise from Mexico to the United States during the POR.⁶

In May and June 2014, Electrolux submitted timely responses to the Department's AD questionnaire. The Department issued supplemental questionnaires to Electrolux from July to September 2014, and Electrolux timely responded to those questionnaires in August and October 2014. On December 12, 2014, Electrolux submitted corrected control number data for certain LRW product codes.

Between October 2014 and February 2015, the Department issued supplemental questionnaires to Samsung with respect to its no-shipment claim, and Samsung provided responses to these questionnaires during November 2014 and February 2015. See "Preliminary Determination of No Shipments" section below for further discussion.

On October 10, 2014, the Department extended the deadline for the preliminary results to March 2, 2015.⁷

III. SCOPE OF THE ORDER

The products covered by the order are all large residential washers and certain subassemblies thereof from Mexico. The term "large residential washers" denotes all automatic clothes washing machines, regardless of the orientation of the rotational axis, except as noted below, with a cabinet width (measured from its widest point) of at least 24.5 inches (62.23 cm) and no more than 32.0 inches (81.28 cm).

Also covered are certain subassemblies used in large residential washers, namely: (1) all assembled cabinets designed for use in large residential washers which incorporate, at a minimum: (a) at least three of the six cabinet surfaces; and (b) a bracket; (2) all assembled tubs⁸ designed for use in large residential washers which incorporate, at a minimum: (a) a tub; and (b) a seal; (3) all assembled baskets⁹ designed for use in large residential washers which incorporate,

⁴ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 79 FR 18262 (April 1, 2014).

⁵ See Memorandum to the File, "Release of Customs and Border Protection (CBP) Data," dated April 9, 2014.

⁶ See Letter to the Department, "Large Residential Washers from Mexico: No Shipments By Samsung From Mexico During the First Administrative Review Period," dated May 9, 2014 (Samsung No-Shipment Letter).

⁷ See Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Reviews," (October 10, 2014).

⁸ A "tub" is the part of the washer designed to hold water.

⁹ A "basket" (sometimes referred to as a "drum") is the part of the washer designed to hold clothing or other fabrics.

at a minimum: (a) a side wrapper;¹⁰ (b) a base; and (c) a drive hub;¹¹ and (4) any combination of the foregoing subassemblies.

Excluded from the scope are stacked washer-dryers and commercial washers. The term “stacked washer-dryers” denotes distinct washing and drying machines that are built on a unitary frame and share a common console that controls both the washer and the dryer. The term “commercial washer” denotes an automatic clothes washing machine designed for the “pay per use” market meeting either of the following two definitions:

(1) (a) it contains payment system electronics;¹² (b) it is configured with an externally mounted steel frame at least six inches high that is designed to house a coin/token operated payment system (whether or not the actual coin/token operated payment system is installed at the time of importation); (c) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners;¹³ or

(2) (a) it contains payment system electronics; (b) the payment system electronics are enabled (whether or not the payment acceptance device has been installed at the time of importation) such that, in normal operation,¹⁴ the unit cannot begin a wash cycle without first receiving a signal from a bona fide payment acceptance device such as an electronic credit card reader; (c) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners.

Also excluded from the scope are automatic clothes washing machines with a vertical rotational axis and a rated capacity of less than 3.70 cubic feet, as certified to the U.S. Department of Energy pursuant to 10 CFR § 429.12 and 10 CFR § 429.20, and in accordance with the test procedures established in 10 CFR Part 430.

The products subject to this order are currently classifiable under subheadings 8450.20.0040 and 8450.20.0080 of the Harmonized Tariff System of the United States (HTSUS).¹⁵ Products

¹⁰ A “side wrapper” is the cylindrical part of the basket that actually holds the clothing or other fabrics.

¹¹ A “drive hub” is the hub at the center of the base that bears the load from the motor.

¹² “Payment system electronics” denotes a circuit board designed to receive signals from a payment acceptance device and to display payment amount, selected settings, and cycle status. Such electronics also capture cycles and payment history and provide for transmission to a reader.

¹³ A “security fastener” is a screw with a non-standard head that requires a non-standard driver. Examples include those with a pin in the center of the head as a “center pin reject” feature to prevent standard Allen wrenches or Torx drivers from working.

¹⁴ “Normal operation” refers to the operating mode(s) available to end users (i.e., not a mode designed for testing or repair by a technician).

¹⁵ The HTSUS numbers are revised from the numbers previously stated in the scope. See Memorandum to the file entitled “Changes to the HTS Numbers to the ACE Case Reference Files for the Antidumping Duty Orders,” dated January 6, 2015.

subject to this order may also enter under HTSUS subheadings 8450.11.0040, 8450.11.0080, 8450.90.2000, and 8450.90.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.

IV. DISCUSSION OF THE METHODOLOGY

A. Preliminary Determination of No Shipments

As noted above, Samsung filed a no-shipment certification indicating that it did not export subject merchandise to the United States during the POR.¹⁶ To examine Samsung's no-shipment claim, the Department obtained entry data from CBP which initially showed that subject merchandise manufactured by Samsung may have entered the United States during the POR.

On October 15, 2014, the Department issued a letter to Samsung, requesting that it explain the apparent discrepancy between Samsung's no-shipment claim and the CBP information.¹⁷ On November 7, 2014, Samsung reiterated that it did not export subject merchandise to the United States during the POR and provided documentation to show that each of the CBP entries did not include subject merchandise.¹⁸ On January 30, 2015, the Department placed on the record documentation requested from CBP with respect to certain entries made by Samsung.¹⁹ On January 30, and February 10, 2015,²⁰ the Department issued supplemental questionnaires to Samsung requesting additional information/clarification regarding its November 7 Response and the entry documentation we received from CBP, to which Samsung responded on February 6 and 12, 2015.²¹

Based on our review of the CBP documentation and Samsung's responses to our requests for information, the Department finds that the record evidence supports Samsung's claim that it did not export subject merchandise to the United States during the POR. Specifically, based on the above evidence, we find the merchandise produced by Samsung which entered the United States during the POR under its antidumping case number appears to be non-subject merchandise. For further discussion, see No Shipments Memo.²²

In summary, the Department finds that Samsung's claim of no shipments or entries of subject merchandise for consumption is substantiated. Based upon the certifications and the evidence on

¹⁶ See Samsung No-Shipment Letter.

¹⁷ See Letter to Samsung, "Antidumping Duty Review of Large Residential Washers from Mexico," dated October 15, 2014 (October 15 Letter) at page 1.

¹⁸ See Letter to the Department, "Large Residential Washers from Mexico" (November 7, 2014) (November 7 Response).

¹⁹ See Memorandum to the File, "Release of Customs and Border Protection (CBP) Entry Documents," dated January 30, 2015.

²⁰ See Letters to Samsung, "Antidumping Duty Review of Large Residential Washers from Mexico," dated January 30 and February 10, 2015.

²¹ See Letter to the Department, "Large Residential Washers from Mexico" (February 6, 2015); and Letter to the Department, "Large Residential Washers from Mexico" (February 12, 2015).

²² See Memorandum to the File, "Preliminary Results of Antidumping Duty Administrative Review: Large Residential Washers from Mexico: No Shipments Memorandum" dated concurrently with this memorandum (No Shipments Memo).

the record, we are satisfied that Samsung had no shipments of subject merchandise to the United States during the POR and, as such, we preliminarily determine that Samsung had no reviewable transactions during the POR.

In our May 6, 2003, Assessment Policy Notice, we explained that, where respondents in an administrative review demonstrate that they had no knowledge of sales through resellers to the United States, we would instruct CBP to liquidate such entries at the all-others rate applicable to the proceeding.²³

In accordance with the Department's practice with respect to reseller situations as articulated in the Assessment Policy Notice, we preliminarily determine that we should instruct CBP to liquidate POR entries of subject merchandise produced by Samsung and exported by other parties at the all-others rate. In addition, in order to be consistent with the Assessment Policy Notice, the Department's current practice is not to rescind the review in part in these circumstances. Rather, we will complete the review with respect to Samsung and issue appropriate instructions to CBP based on the final results of the review.

B. Comparisons to Normal Value

Pursuant to 19 CFR 351.414(c), to determine whether Electrolux's sales of LRWs from Mexico were made in the United States at less than NV, we compared the constructed export price (CEP) to the NV as described in the "Constructed Export Price" and "Normal Value" sections of this memorandum.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (the average-to-average method (A-A) method), unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, the Department examines whether to use the average-to-transaction (A-T) method as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in antidumping investigations.²⁴

In recent proceedings, the Department has applied a "differential pricing" analysis for determining whether application of A-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act. The Department finds that the differential pricing analysis used in recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this

²³ See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003) (Assessment Policy Notice).

²⁴ See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1; see also CP Kelco Oy v. United States, 978 F. Supp. 2d 1315, 1324 (CIT 2014).

administrative review.²⁵ The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-A method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer code. Regions are defined using the reported destination code (*i.e.*, state) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP or CEP and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium, or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales in the test group were found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application

²⁵ See, *e.g.*, Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33351 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 3; and Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 70163 (November 25, 2014), and accompanying Issues and Decision Memorandum at Comment 2.

of the A-T method to all sales as an alternative to the A-A method. If the value of sales to purchasers, regions, and time periods that passes the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the A-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the A-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-A method cannot account for differences such as those observed in this analysis and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if (1) there is a 25 percent relative change in the weighted-average dumping margin between the A-A method and the appropriate alternative method where both rates are above the de minimis threshold, or (2) the resulting weighted-average dumping margin moves across the de minimis threshold.

Interested parties may present arguments in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

2. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, the Department finds that 46.55 percent of Electrolux's U.S. sales confirms the existence of a pattern of CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods.²⁶ Therefore, the results support consideration of the application of an A-to-T method to those sales identified as passing the Cohen's *d* test, and application of the A-to-A method to those sales identified as not passing the Cohen's *d* test (mixed alternative methodology). Because there is a meaningful difference in the weighted-average dumping margin when calculated using the A-to-A method and the mixed alternative method, the Department preliminarily determines that is appropriate to apply the mixed alternative method in making comparisons of CEP and NV for Electrolux.

²⁶ See Memorandum to the File, "Analysis of the Preliminary Results Margin Calculation for Electrolux," dated concurrently with this memorandum.

C. Product Comparisons

In accordance with section 771(16) of the Act, we compared products produced by Electrolux and sold in the U.S. and the comparison (Canadian)²⁷ markets on the basis of the comparison product which was either identical or most similar in terms of the physical characteristics to the product sold in the United States. In the order of importance, these physical characteristics are unit type, washer type, capacity measurement, drying system, finish/color of front panel, user interface display, specialty cycle, door/lid material, motor type, water heater, and shoe care function. Pursuant to 19 CFR 351.414(f), we compared U.S. sales of LRWs to sales of LRWs made in the comparison market within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. sale.

D. Constructed Export Price

In accordance with section 772(b) of the Act, we based U.S. price on CEP for Electrolux because the subject merchandise was first sold after importation in the United States by Electrolux. We calculated CEP based on the packed, ex-border, ex-distribution center, or delivered prices to the unaffiliated purchasers in the United States. Where appropriate, pursuant to 19 CFR 351.401(c), we adjusted the starting prices for billing adjustments, early payment and other discounts, and rebates. We made deductions for any movement expenses, which included, where appropriate, foreign and U.S. inland freight, Mexican and U.S. warehousing, inland insurance, and Mexican Customs fees, in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, imputed credit expenses, advertising expenses, finance fees, and direct warranty expenses) and indirect selling expenses (*i.e.*, inventory carrying costs, indirect warranty expenses, and other indirect selling expenses). Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Electrolux on its sales of the subject merchandise in the United States and the profit associated with these sales.

E. Normal Value

1. Selection of Comparison Market

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 five percent or more of the aggregate volume of U.S. sales), we compared the volume of Electrolux's home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a) of the Act.

In this review, we determined that Electrolux's aggregate volume of home market sales of the foreign like product was insufficient to permit a proper comparison with U.S. sales of the subject merchandise. Therefore, we used sales to Canada, Electrolux's largest third country market,

²⁷ See "Normal Value," "A. Selection of Comparison Market" section below.

comprised of merchandise that is similar and/or identical to the subject merchandise exported to the United States, as the basis for comparison market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

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

In this review, Electrolux sold foreign like product to affiliated and unaffiliated customers in the comparison market. The Department calculates NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the producer or exporter, *i.e.*, sales at "arm's length."²⁸ To test whether Electrolux's sales to affiliated customers were made at arm's-length prices, we compared, on a model-specific basis, the starting prices of sales to affiliated and unaffiliated customers, net of all applicable billing adjustments, discounts and rebates, movement 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 and included such sales in the calculation of NV.²⁹ Sales to affiliated customers in the comparison 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.³⁰

3. 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 LOT as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).³¹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.³² In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market (*i.e.*, the chain of distribution), including selling functions and class of customer (customer category).

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),³³ we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities

²⁸ See 19 CFR 351.403(c).

²⁹ See 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).

³⁰ See section 771(15) of the Act and 19 CFR 351.102(b).

³¹ See 19 CFR 351.412(c)(2).

³² 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 (August 18, 2010), and accompanying Issues and Decision Memorandum at Comment 7 (OJ from Brazil).

³³ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative (SG&A) expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.³⁴

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 a 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 is possible), the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.³⁵

In this administrative review, we obtained information from Electrolux regarding the marketing stages involved in making its reported Canadian market and U.S. sales, including a description of the selling activities performed by Electrolux for each channel of distribution.³⁶ Our LOT finding is summarized below.

To determine whether Canadian market sales are at a different LOT than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. In order to conduct our LOT analysis, we grouped the selling activities reported by Electrolux into the following four selling function categories: (1) sales and marketing; (2) freight and delivery services; (3) inventory maintenance and warehousing; and (4) warranty and technical support.

In the Canadian market, Electrolux reported the following three channels of distribution: (1) its Canadian affiliate (*i.e.*, Electrolux Canada Corp. (CDW)) arranges with its U.S. affiliate, Electrolux Major Appliances North America (UWA), to have the merchandise delivered from the El Paso warehouse to CDW's customer; (2) the customer picks up the merchandise from CDW's regional distribution center (RDC); and (3) CDW delivers the merchandise from the RDC to the customer.³⁷ After analyzing the data on the record with respect to the four above-mentioned selling function groups performed for each customer type, we find that Electrolux performed each of them for all three Canadian market distribution channels at a similar level of intensity and, therefore, determine that all its Canadian sales constitute one LOT.³⁸

In the U.S. market, Electrolux reported the following four channels of distribution: (1) the customer picks up the merchandise from its El Paso warehouse; (2) UWA delivers the merchandise from the El Paso warehouse to the customer; (3) the customer picks up the merchandise from a UWA RDC; and (4) UWA delivers the merchandise from the RDC to the

³⁴ See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

³⁵ See, *e.g.*, *OJ from Brazil* at Comment 7.

³⁶ See LGE's response to section A of the Department's questionnaire, dated May 27, 2014 (QRA) at pages A-18 – A-46, and Exhibits A-10 – A-12; and LGE's response to the Department's first supplemental questionnaire for Sections A, B and C, dated August 4, 2014 (SQR1) at pages 8 – 9, and Exhibit First Supp. A-4.

³⁷ See Electrolux's Section A questionnaire response dated May 19, 2014 (Section A Response), at 13-17 and Exhibits A-8 and A-9.

³⁸ *Id.*

customer.³⁹ We compared the selling activities Electrolux performed in each channel, exclusive of the selling activities performed by its U.S. affiliate (i.e., UWA), and we found that Electrolux performed only one selling function (i.e., freight and delivery services) at the same level of intensity for each channel. As a result, we determine that Electrolux's CEP sales constitute one LOT.⁴⁰

We find that there were significant differences between the selling activities associated with the CEP LOT and those associated with the Canadian market LOT. Specifically, we compared the CEP LOT to the Canadian market LOT and found that the selling functions performed for Canadian market sales are either not performed for CEP sales or are performed at a significantly higher degree of intensity compared to the selling functions performed for U.S. sales. For example, we found that three of the four selling functions (i.e., sales and marketing, inventory maintenance and warehousing, and warranty and technical support) are performed by Electrolux in the Canadian market but not in the U.S. market.⁴¹ Moreover, the remaining selling function (i.e., freight and delivery services) was performed by Electrolux in the Canadian market at the same degree of intensity as in the U.S. market.

For the above-mentioned reasons, we determine the NV LOT is at a more advanced stage of distribution than the CEP LOT and that no LOT adjustment is possible. Accordingly, we have granted a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f).

4. Cost of Production

We found that Electrolux made sales to the Canadian market below the COP in the most recently completed segment of this proceeding as of the date of initiation of this review, and such sales were disregarded.⁴² Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that Electrolux made sales of the subject merchandise in its comparison market at prices below the COP in the current review period. Accordingly, we are conducting a sales-below-cost investigation to determine whether Electrolux's comparison market sales were made at prices below their COP. We examined Electrolux's cost data and determined that our quarterly cost methodology is not warranted, and, therefore, we applied our standard methodology of using annual costs based on the reported data.

a. Calculation of Cost of Production

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative and financial expenses, in accordance with section 773(b)(3) of the Act. We relied on the COP data submitted by Electrolux in its questionnaire responses, and made no adjustments to these data.

³⁹ Id.

⁴⁰ Id.

⁴¹ See Electrolux's supplemental questionnaire response dated August 29, 2014, at Exhibit A-22.

⁴² See Large Residential Washers from Mexico: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 77 FR 46401, 46407 (August 3, 2012) (unchanged in Notice of Final Determination of Sales at Less Than Fair Value: Large Residential Washers from Mexico, 77 FR 76288 (December 27, 2012)).

b. Test of Comparison Market Sales Prices

On a product-specific basis, as required under section 773(b) of the Act, we compared the weighted-average COP for the POR to the per-unit price of the comparison market sales of the foreign like product, in order to determine whether these sales had been made at prices below the COP. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The comparison market prices were exclusive of applicable movement charges, discounts and rebates, billing adjustments, direct and indirect selling expenses, and packing expenses.

c. Results of the COP Test

In determining whether to disregard comparison market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: 1) within an extended period of time, such sales were made in substantial quantities; and 2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's home market sales of a given product are at prices less than the COP, we disregard none of the below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: 1) the sales were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and 2) based on our comparison of prices to the weighted-average COPs for the POR, the sales were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Because we are applying our standard annual average cost test in these preliminary results, we have also applied our standard cost recovery test with no adjustment.

Our cost test for Electrolux indicated that for Canadian market sales of certain products, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales to determine NV.

d. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on packed, ex-border, ex-distribution center, or delivered prices for Electrolux's Canadian market sales to unaffiliated purchasers. We made adjustments, where appropriate, to the starting price for discounts, rebates, and billing adjustments. We made deductions for movement expenses, including inland freight, warehousing, inland insurance, Canadian brokerage and handling, and Mexican Customs fees, under section 773(a)(6)(B)(ii) of the Act. We also made deductions for direct selling expenses (*i.e.*, imputed credit expenses, warranty expenses, and advertising expenses), in accordance with section 773(A)(6)(C)(iii) of the Act and 19 CFR 351.410. 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 Canadian market sales or the indirect selling expenses deducted from the starting

price in calculating CEP. 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 third country packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act.

F. Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

V. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

✓
Agree

Disagree


Paul Piquado
Assistant Secretary
for Enforcement and Compliance

2 MARCH 2015
(Date)