Bottom Mount Combination Refrigerator-Freezers From Korea and Mexico

Investigation Nos. 701-TA-477 and 731-TA-1180-1181 (Preliminary)

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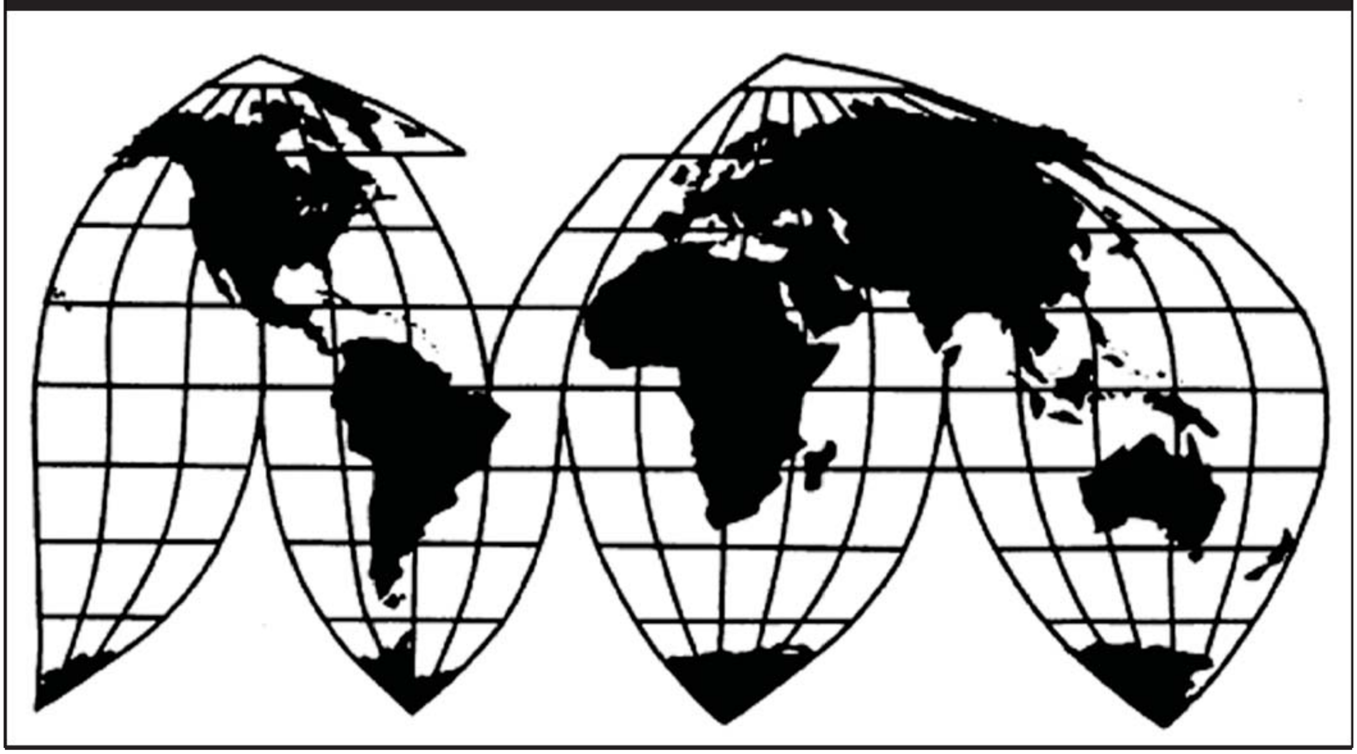
U.S. International Trade Commission



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U.S. International Trade Commission

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Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-477 and 731-TA-1180-1181 (Preliminary)

BOTTOM MOUNT COMBINATION REFRIGERATOR-FREEZERS
FROM KOREA AND MEXICO

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Korea of bottom mount combination refrigerator-freezers, provided for in subheadings 8418.10.00, 8418.21.00, 8418.99.40, and 8418.99.80 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV) and subsidized by the Government of Korea. The Commission further determines, pursuant to section 733(a) of the Act (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Mexico of bottom mount combination refrigerator-freezers, provided for in subheadings 8418.10.00, 8418.21.00, 8418.99.40, and 8418.99.80 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at LTFV.

COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

BACKGROUND

On March 30, 2011, a petition was filed with the Commission and Commerce by Whirlpool Corp., Benton Harbor, MI, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV and subsidized imports of bottom mount combination refrigerator-freezers from Korea and LTFV imports of bottom mount combination refrigerator-freezers from Mexico. Accordingly, effective March 30, 2011, the Commission instituted countervailing duty investigation No. 701-TA-477 and antidumping duty investigation Nos. 731-TA-1180-1181 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of April 6, 2011 (76 FR 19125). The conference was held in Washington, DC, on April 20, 2011, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

VIEWS OF THE COMMISSION

Based on the record in the preliminary phase of these investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of bottom mount combination refrigerator-freezers ("bottom mount refrigerators") from Korea that are allegedly subsidized by the Government of Korea and sold in the United States at less than fair value ("LTFV") and imports of bottom mount refrigerators from Mexico that are allegedly sold in the United States at LTFV.[1]

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determinations, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.[2] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[3]

II. BACKGROUND

The petitions in these investigations were filed on March 30, 2011 by Whirlpool Corporation ("Whirlpool"), which accounts for the vast majority of domestic production of bottom mount refrigerators. Respondents that participated in the staff conference and filed post-conference briefs in the preliminary phase of these investigations include foreign producers LG Electronics U.S.A., Inc., LG Electronics, Inc., and LG Electronics Monterrey Mexico, S.A. de C.V. (collectively, "LG"); foreign producers Samsung Electronics Co., Ltd., Samsung Electronics Mexico, S.A. de C.V., and Samsung Electronics America, Inc. (collectively, "Samsung"); and purchaser The Home Depot, Inc. ("Home Depot") (collectively, "respondents").

The Commission received U.S. producers' questionnaire responses from four producers accounting for over *** percent of total U.S. production of bottom mount refrigerators during the period examined.[4] It received importers' questionnaire responses from 11 firms, and five of these responding importers accounted for the vast majority of subject imports from Korea and Mexico.[5] It received foreign producers' responses from two Korean producers accounting for the vast majority of bottom mount refrigerator production in Korea and all Korean exports of bottom mount refrigerators to the United

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[1] Chairman Okun has recused herself from participating in these investigations.

[2] 19 U.S.C. § 1673b(a) (2000); <u>see also</u> <u>American Lamb Co. v. United States</u>, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); <u>Aristech Chem. Corp. v. United States</u>, 20 CIT 353, 354-55 (1996). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

[3] <u>American Lamb Co.</u>, 785 F.2d at 1001; <u>see also</u> <u>Texas Crushed Stone Co. v. United States</u>, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[4] Confidential Staff Report ("CR") at III-1; Public Staff Report ("PR") at III-1. The Commission received questionnaire responses from General Electric Co. ("GE"); Haier America Refrigerators Co., Ltd. ("Haier"); Viking Range Corp. ("Viking"); and Whirlpool. <u>Id.</u> The Commission also sent a questionnaire to Sub-Zero, which the petition identified as a domestic producer of bottom mount refrigerators, but did not receive a response. CR at III-1 n.1; PR at III-1 n.1. Haier did not submit usable trade, financial, or pricing data. <u>Id.</u>

[5] CR at IV-1 & n.2; PR at IV-1 & n.2.

States.[6] The Commission also received foreign producers' questionnaire responses from four Mexican producers believed to account for all bottom mount refrigerator production in Mexico and all Mexican exports of bottom mount refrigerators to the United States.[7]

III. DOMESTIC LIKE PRODUCT

A. <u>In General</u>

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[8] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Tariff Act"), defines the relevant domestic industry as the "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[9] In turn, the Tariff Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation ... ."[10]

B. <u>Product Description</u>

In its notice of initiation, Commerce defined the imported merchandise within the scope of the investigations as follows:

> The products covered by the investigations are all bottom mount combination refrigerator-freezers and certain assemblies thereof from Korea and Mexico. For purposes of the investigations, 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:
>
> (1) The cabinet contains at least two interior storage compartments accessible through one or more separate external doors or drawers or a combination thereof;
>
> (2) The 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
>
> (3) There is at least one freezer or convertible compartment that is mounted below the upper-most interior storage compartment(s).
>
> For purposes of the investigations, a refrigerator compartment is capable of storing food at temperatures above 32 degrees F (0 degrees C), a freezer compartment is

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[6] CR at VII-2; PR at VII-2.

[7] CR at VII-6; PR at VII-4.

[8] 19 U.S.C. § 1677(4)(A).

[9] 19 U.S.C. § 1677(4)(A).

[10] 19 U.S.C. § 1677(10).

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 investigations 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 these investigations 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.[11]

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

All bottom mount refrigerators are characterized by a lower freezer compartment and an upper refrigerator compartment used to store perishable food and beverages, although they otherwise come in a variety of configurations and capacities with different combinations of features.[12] In terms of configuration, bottom mount refrigerators have two or more doors, including three-door French door and four-door French door with an additional drawer between the freezer and refrigerator compartments.[13] Bottom mount refrigerators may be counter depth or regular depth, and come in widths of 30, 33, or 36 inches.[14] In terms of capacity, bottom mount refrigerators may be characterized as “large” or “jumbo” capacity, with an interior measuring 27 cubic feet or more, or regular capacity, with an interior measuring less than 27 cubic feet.[15] Features found in various combinations on bottom mount refrigerators include stainless steel exteriors, dual evaporators, LED lighting, external ice and water dispensers, quick-freezing freezer compartments, convertible compartments (i.e., compartments that may be used as either a

[11] Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea and Mexico: Initiation of Antidumping Duty Investigations, 76 Fed. Reg. 23281, 23285-86 (April 26, 2011).

[12] CR at I-10; PR at I-8.

[13] CR at I-11; PR at I-8-9.

[14] CR at I-10; PR at I-8.

[15] See Petitioner’s Postconference Brief at 11 (referencing Whirlpool’s introduction of a 27 cubic foot model in competition with Samsung’s 29 cubic foot model); Conference Transcript at 152 (Cunningham) (testifying that Whirlpool’s 27 cubic foot model, LG’s 28 cubic foot model, and Samsung’s 29 cubic foot model occupy the large capacity segment of the market).

refrigerator or a freezer), premium shelving, "Serve N Go" removable shelving, Energy Star rated energy efficiency, and LCD interfaces.[16]

C. Parties' Arguments

Petitioner argues that the Commission should define a single domestic like product encompassing all bottom mount refrigerators because, in its view, bottom mount refrigerators are distinguishable from top mount refrigerators and side-by-side refrigerators in terms of the Commission's like product factors. Both LG and Samsung agree with petitioner's proposed domestic like product definition for purposes of the preliminary phase of the investigations.[17]

D. Analysis

The Commission must accept Commerce's determination as to the scope of the imported merchandise alleged to be subsidized or sold at LTFV,[18] but the Commission may, where appropriate, include domestic articles in the domestic like product in addition to those described in the scope.[19] In past investigations, the Commission has based its like product determination on a six factor test that compared domestically produced products within the scope to those outside the scope.[20]

Although no party has raised a domestic like product issue, the Commission asked questionnaire respondents to comment on the similarities and differences between bottom mount refrigerators and other types of refrigerators in terms of the Commission's domestic like product factors and also collected trade and financial data on top mount refrigerators and side-by-side refrigerators. These questions were premised on the possibility of the Commission expanding the definition of the domestic like product beyond the scope of the investigations to include top mount and side-by-side refrigerators.

Based on the following analysis, we define the domestic like product as coextensive with the scope of the investigations for purposes of the preliminary phase of the investigations.

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[16] CR at I-15-18; PR at I-11-13; Petition at 119.

[17] Samsung's Postconference Brief at 1-2; Conference Transcript at 142 (Cunningham).

[18] See USEC, Inc. v. United States, Slip. Op. 01-1421 (Fed. Cir. Apr. 25, 2005) at 9 ("The ITC may not modify the class or kind of imported merchandise examined by Commerce.").

[19] See, e.g., Pure Magnesium from China and Israel, Invs. Nos. 701-TA-403 and 731-TA-895-96 (Final), USITC Pub. 3467 (Nov. 2001) at 8, n. 34; Torrington Co. v. United States, 747 F.Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) (holding that the Commission is not legally required to limit the domestic like product to the product advocated by the petitioner, co-extensive with the scope); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); see also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

[20] See Superalloy Degassed Chromium, USITC Pub. 3768 at 7; Aluminum Plate from South Africa, USITC Pub 3734 at 7; Ironing Tables and Certain Parts Thereof from China, Inv. No. 731-TA-1047 (Final), USITC Pub. 3711 at 6-7 (Jul. 2004); Certain Wax/Resin Thermal Transfer Ribbons from France and Japan, Invs. Nos. 731-TA-1039-1040 (Final), USITC Pub. 3683 at 8 (Apr. 2004).

Physical characteristics and uses

All types of refrigerators have the same use, which is to store and maintain perishable food and beverages, but bottom mount refrigerators differ from top mount refrigerators and side-by-side refrigerators in terms of certain physical characteristics.[21] Most significantly, bottom mount refrigerators have an upper refrigerator compartment and a lower freezer compartment, whereas top mount refrigerators have an upper freezer compartment and a lower refrigerator compartment and side-by-side refrigerators have adjacent refrigerator and freezer compartments.[22] Because their configurations differ from those of other refrigerators, bottom mount refrigerators are distinctive both in terms of thermodynamic engineering, as cold air must be circulated from the freezer to the refrigerator, and somewhat different ergonomics, with the refrigerator compartment closer to eye level.[23] Differences between bottom mount refrigerators, on the one hand, and top mount and side-by-side refrigerators, on the other, dictate a different "Energy Star" efficiency standard for bottom mount refrigerators than for other types of refrigerators.[24] Most responding domestic producers reported that bottom mount refrigerators differ from top mount and side-by-side refrigerators in terms of physical characteristics, but most responding importers reported that they do not.[25]

Interchangeability

Bottom mount refrigerators are interchangeable with top mount and side-by-side refrigerators insofar as all three types of refrigerators have the same use and overlap significantly in terms of capacity and features.[26] Most responding domestic producers reported that bottom mount refrigerators are not interchangeable with top mount and side-by-side refrigerators, however, because of their configuration, with the refrigerator compartment closer to eye level.[27] Half of responding importers reported that bottom mount refrigerators are interchangeable with top mount refrigerators, while a majority of responding importers reported that they are interchangeable with side-by-side refrigerators, given that they have the same general purpose.[28]

Common manufacturing facilities, production processes, and production employees

Whirlpool produces 90 to 95 percent of its bottom mount refrigerators at a facility dedicated to bottom mount refrigerator production in Amana, Iowa.[29] Although Whirlpool produces the balance of its bottom mount refrigerators in Fort Smith, Arkansas, where it also produces side-by-side refrigerators, these are built-in models that are hand assembled on a separate production line.[30] Accordingly, Whirlpool produces bottom mount refrigerators using different production employees, largely different production

[21] CR at I-7; PR at I-6.

[22] CR at I-8-10; PR at I-6-8.

[23] CR at I-19; PR at I-13.

[24] Conference Transcript at 69 (Reinke).

[25] CR at I-18-19, 21-22; PR at I-13-15.

[26] CR at I-7; PR at I-6.

[27] CR at I-20, 23; PR at I-14, 16.

[28] CR at I-20, 23; PR at I-14, 16.

[29] Conference Transcript at 46 (Bitzer).

[30] Conference Transcript at 46 (Bitzer).

processes, and dedicated tooling.[31] Most domestic producers reported that bottom mount refrigerators differ from top mount refrigerators in terms of manufacturing facilities, production processes, and production employees, and half of responding domestic producers reported that they differ from side-by-side refrigerators in terms of this factor.[32] Most responding importers reported that the three types of refrigerators are similar in terms of this factor.[33]

Channels of distribution

All types of refrigerators are shipped mostly to distributors for sale through retailers.[34] All questionnaire respondents reported that bottom mount refrigerators are similar to top mount and side-by-side refrigerators in terms of channels of distribution.[35]

Customer and producer perceptions

Most questionnaire respondents, both domestic producers and importers, reported that consumers perceive bottom mount refrigerators as different from and preferable to top mount and side-by-side refrigerators in terms of ergonomics and style.[36] An emerging consumer preference for bottom mount refrigerators is indicated by data showing that bottom mount refrigerator sales have increased while sales of other types of refrigerators have declined, and that bottom mount refrigerators account for an increasing share of total refrigerator sales.[37] By extension, producers perceive bottom mount refrigerators as the fastest growing segment of the refrigerator market.[38]

Price

The average unit value of the domestic industry's U.S. shipments of bottom mount refrigerators was significantly higher than the average unit value of the domestic industry's U.S. shipments of top mount refrigerators and side-by-side refrigerators throughout the period examined.[39] All questionnaire respondents reported that bottom mount refrigerators are higher priced than top mount and side-by-side refrigerators.[40] At the same time, prices overlapped in the case of particular models, and generally prevailing prices were punctuated by periodic steep discounting.[41]

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[31] Conference Transcript at 46-47 (Bitzer).

[32] CR at I-19-20, 22; PR at I-14-15.

[33] CR at I-19-20, 22; PR at I-14-15.

[34] CR at I-21, 24; PR at I-15-16.

[35] CR at I-21, 24; PR at I-15-16.

[36] CR at I-20-21, 23; PR at I-14, 16.

[37] See Home Depot's Postconference Brief at 3.

[38] See CR at II-9-10, 14; PR at II-5-6, 8; see also Conference Transcript at 20, 27 (Bitzer); Samsung's Postconference Brief at 2; LG's Postconference Brief at 2.

[39] The average unit value of the domestic industry's U.S. shipments of bottom mount refrigerators ranged from $*** to $***, while the average unit value of the domestic industry's U.S. shipments of top mount refrigerators ranged from $*** to $*** and the average unit value of the domestic industry's U.S. shipments of side-by-side refrigerators ranged from $*** to $***. CR/PR at Tables C-1-3.

[40] CR at I-21, 24 PR at I-15-16.

[41] See Conference Transcript at 76-77 (Bitzer); Petitioner's Conference Exhibit 6; Samsung's Postconference Brief at Exhibit 16; CR at II-12; PR at II-7.

Conclusion

The record indicates that there are both similarities and differences among bottom mount refrigerators, top mount refrigerators, and side-by-side refrigerators. Bottom mount refrigerators are similar to top mount and side-by-side refrigerators in terms of use and channels of distribution. The evidence on the extent to which bottom mount refrigerators are interchangeable with top mount and side-by-side refrigerators is mixed. Bottom mount refrigerators generally differ from other types of refrigerators, however, in terms of certain physical characteristics; manufacturing facilities, production processes, and production employees; consumer and producer perceptions; and, with some exceptions, price.

Based on the evidence on the record of the preliminary phase of the investigations, we find that the differences between bottom mount refrigerators and top mount and side-by-side refrigerators support limiting the domestic like product definition to bottom mount refrigerators. Moreover, all parties agree that the Commission should define the domestic like product as coextensive with the scope of the investigations for purposes of its preliminary determinations. For these reasons, we define a single domestic like product encompassing all bottom mount refrigerators within the scope of the investigations. We intend to further explore the domestic like product issue in any final phase of these investigations.[42]

IV. DOMESTIC INDUSTRY

The domestic industry is defined as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[43] In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market. Based on our definition of the domestic like product, we define the domestic industry as all domestic producers of bottom mount refrigerators, including GE, Haier, Sub-Zero, Viking, and Whirlpool.[44]

A. <u>Related Parties</u>

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 19 U.S.C. § 1677(4)(B). Subsection 1677(4)(B) allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.[45] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation. No party has commented on the related party issue in the preliminary phase of the investigations.

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[42] Commissioner Lane notes that there is no "absence" of a like product as contemplated by 19 U.S.C. § 1677(4)(A) and there is no indication or argument that other products which are "similar in characteristics and uses with the article subject to investigation" may be injured or threatened by material injury by reason of imports of the article subject to these investigations. Therefore, she finds no need to further explore the domestic like product issue in any final phase of the investigations.

[43] 19 U.S.C. § 1677(4)(A).

[44] CR/PR at Table III-1.

[45] 19 U.S.C. § 1677(4)(B).

The record indicates that *** qualifies as a related party because it imported subject merchandise from both subject countries during the period examined.[46] We find that appropriate circumstances exist to exclude *** from the domestic industry for the following reasons.

*** primary interest was in the importation of subject merchandise rather than domestic production during the period examined, given that its ratio of imports of subject merchandise to domestic production ranged from *** percent to *** percent.[47] ***.[48] [49] [50] *** domestic operations were *** more profitable than those of other domestic producers, though the extent to which *** domestic operations benefitted from its importation of subject merchandise is unclear.[51] The inclusion or exclusion of *** from the domestic industry would have *** on the domestic industry's trade or financial data, due to ***.[52] On balance, however, we find that appropriate circumstances exist for excluding *** from the domestic industry as a related party.

Accordingly, we define the domestic industry to include all U.S. producers of bottom mount refrigerators with the exception of ***.

V. CUMULATION

A. Background

For purposes of evaluating the volume and price effects for a determination of reasonable indication of material injury by reason of the subject imports, section 771(7)(G)(i) of the Tariff Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the U.S. market.[53] In assessing whether subject imports compete with each other and with the domestic like product, the Commission has generally considered four factors:

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[46] CR/PR at Table III-5. Although *** purchased small quantities of subject imports from Mexico, ranging from *** to *** units, see id., we find that *** does not qualify as a related party because it did not control a large volume of subject imports. See, e.g., Electrolytic Manganese Dioxide from Australia and China, Inv. Nos. 731-TA-1124-1125 (Final), USITC Pub. 4036 (September 2008) at 6 n.26.

[47] CR/PR at Table III-5.

[48] CR at III-4, 7; PR at III-2-3; Conference Transcript at 84 (Bitzer).

[49] Consistent with her practice in past investigations and reviews, Commissioner Aranoff does not rely on individual-company operating income margins, which reflect a domestic producer's financial operations related to production of the domestic like product, in assessing whether a related party has benefitted from importation of subject merchandise. Rather, she determines whether to exclude a related party based principally on its ratio of subject imports to domestic production and whether its primary interests lie in domestic production or importation.

[50] For purposes of the preliminary phase of these investigations, Commissioner Pinkert does not rely upon the related party's financial performance as a factor in determining whether there are appropriate circumstances to exclude it from the domestic industry and relies instead on other information relevant to this issue. The present record is not sufficient to link the related party's profitability on U.S. operations to any specific benefit it receives or derives from importing. See Allied Mineral Products v. United States, 28 CIT 1861, 1865-67 (2004). For any final phase of the investigations, Commissioner Pinkert invites the parties to provide any information they may have with respect to this issue.

[51] CR/PR at Table VI-2.

[52] Compare CR/PR at Table C-1 with id. at Table C-5.

[53] 19 U.S.C. § 1677(7)(G)(i).

(1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
(2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
(3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
(4) whether the subject imports are simultaneously present in the market.[54] [55]

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.[56] Only a "reasonable overlap" of competition is required.[57]

The statutory threshold for cumulation is satisfied in these investigations because petitioner filed the antidumping duty petitions with respect to both countries and the countervailing duty petition with respect to Korea on the same day, March 30, 2011.[58] None of the statutory exceptions to cumulation is applicable.

B. Analysis

Based on the record of the preliminary phase of these investigations, we find a reasonable overlap of competition between subject imports from Korea and Mexico and between subject imports from each source and the domestic like product. First, the record indicates that there is some degree of substitutability between subject imports from Korea and Mexico and between subject imports from each source and the domestic like product. All responding domestic producers and two responding importers reported that subject imports from Korea and Mexico are "always" or "frequently" interchangeable with each other and with the domestic like product.[59] Three responding importers reported that subject imports from Korea and Mexico are "sometimes" interchangeable with the domestic like product, and two responding importers reported that subject imports from Korea and Mexico are "sometimes" interchangeable with each other.[60] On the other hand, when asked whether differences other than price

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[54] See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

[55] Commissioner Lane notes with respect to the first factor that her analysis does not require such similarity of products that a perfectly symmetrical fungibility is required. See Separate Views of Commissioner Charlotte R. Lane, Certain Lightweight Thermal Paper from China, Germany, and Korea, Inv. Nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary), USITC Pub. 3964 (Nov. 2007).

[56] See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

[57] The Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. 1 at 848 (1994) ("SAA") expressly states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition." SAA at 848 (citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988)), aff'd, 859 F.2d 915 (Fed. Cir. 1988). See Goss Graphic Sys., Inc. v. United States, 33 F. Supp. 2d 1082,1087 (Ct. Int'l Trade 1998) ("cumulation does not require two products to be highly fungible"); Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required.").

[58] None of the statutory exceptions to cumulation is applicable.

[59] CR/PR at Table II-3.

[60] CR/PR at Table II-3.

are ever significant to purchasers in choosing among bottom mount refrigerators produced in Korea, Mexico, and the United States, one responding domestic producer reported "frequently" and one reported "sometimes," while two responding importers reported "always" and one reported "frequently."[61] Nevertheless, both petitioner and respondents have presented numerous price comparisons of specific subject imported and domestically produced bottom mount refrigerator models that allegedly compete in the U.S. market,[62] and most major retailers carry bottom mount refrigerators produced by both Whirlpool in the United States and by LG and Samsung in Korea and Mexico.[63] Moreover, pricing data collected on U.S. sales of seven specific bottom mount refrigerator products indicate that there were significant sales of both domestically produced bottom mount refrigerators and subject imported refrigerators with respect to five of the products.[64] On balance, the record indicates that subject imports from Korea and Mexico and the domestic like product are sufficiently interchangeable to suggest a reasonable overlap of competition.

Second, petitioner and respondents agree that bottom mount refrigerators from all sources served a nationwide market during the period examined.[65] Subject imports from Korea and Mexico entered the United States through multiple ports of entry dispersed around the country, and domestic producers and importers reported distributing their bottom mount refrigerators throughout the United States.[66] Thus, subject imports from all three sources and the domestic like product serve all regions of the United States.

Third, subject imports from Korea and Mexico and the domestic like product shared the same general channels of distribution. During the period examined, the vast majority of domestically produced and subject imported bottom mount refrigerators were shipped to distributors.[67]

Finally, bottom mount refrigerators from all sources were simultaneously present in the U.S. market, given that subject imports from Korea and Mexico entered the United States in every month of the period examined.[68]

Based on these factors, we conclude that there is a reasonable overlap of competition between and among subject imports and the domestic like product and, therefore, cumulate subject imports from Korea and Mexico for our analysis of whether there is a reasonable indication of material injury by reason of subject imports.

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[61] CR/PR at Table II-4.

[62] See, e.g., Petition, at 127-128; Petitioner's Conference Exhibits 7 and 8; Petitioner's Postconference Brief at 11; Samsung's Conference Exhibit at 2; Samsung's Postconference Brief at Exhibit 15; LG's Postconference Brief at Exhibit 7; Home Depot's Postconference Brief at 7, Exhibit 3.

[63] CR/PR at Table II-2.

[64] See CR/PR at Tables V-3-16. ***. Id. at Table V-5.

[65] CR at II-1-2, IV-5; PR at II-1, IV-2; LG's Postconference Brief at 2-3; Conference Transcript at 136-37 ("[R]etailers such as Home Depot, Best Buy, Lowes, and Sears offer both U.S. origin and subject import refrigerators of all configurations and price points.").

[66] CR at II-1, IV-5; PR at II-1, IV-2.

[67] CR at II-2; PR at II-2; CR/PR at Table II-1.

[68] CR at IV-5; PR at IV-2-3.

VI. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS[69]

A. Legal Standard

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.[70] In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[71] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[72] In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[73] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[74]

Although the statute requires the Commission to determine whether there is a reasonable indication that the domestic industry is "materially injured by reason of" unfairly traded imports,[75] it does not define the phrase "by reason of," indicating that this aspect of the injury analysis is left to the Commission's reasonable exercise of its discretion.[76] In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the "by reason of" standard must ensure that subject imports are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.[77]

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[69] Negligibility under 19 U.S.C. § 1677(24) is not an issue in these investigations. Based on U.S. import data compiled from the Commission's questionnaire responses, subject imports from Korea accounted for *** percent of all imports of bottom mount refrigerators, and subject imports from Mexico accounted for *** percent of such imports during the most recent 12-month period preceding the filing of the petition for which data are available. CR at IV-5-6.

[70] 19 U.S.C. §§ 1671b(a), 1673b(a).

[71] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each {such} factor ... {a}nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

[72] 19 U.S.C. § 1677(7)(A).

[73] 19 U.S.C. § 1677(7)(C)(iii).

[74] 19 U.S.C. § 1677(7)(C)(iii).

[75] 19 U.S.C. §§ 1671b(a), 1673b(a).

[76] Angus Chemical Co. v. United States, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) ("{T}he statute does not 'compel the commissioners' to employ {a particular methodology}."), aff'g 944 F. Supp. 943, 951 (Ct. Int'l Trade 1996).

[77] The Federal Circuit, in addressing the causation standard of the statute, observed that "{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement." Nippon Steel Corp. v. USITC, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was further ratified in Mittal Steel Point Lisas Ltd. v. United States, 542 F.3d 867, 873 (Fed. Cir. 2008), where the Federal Circuit, quoting Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that "this court requires evidence in the record 'to show that the harm occurred "by reason of" the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.'" See also Nippon Steel Corp. v. United States, 458

In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include nonsubject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative history explains that the Commission must examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.[78] In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.[79] Nor does the "by reason of" standard require that unfairly traded imports be the "principal" cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject imports, which may be contributing to overall injury to an industry.[80] It is clear that the existence of injury caused by other factors does not compel a negative determination.[81]

Assessment of whether material injury to the domestic industry is "by reason of" subject imports "does not require the Commission to address the causation issue in any particular way" as long as "the injury to the domestic industry can reasonably be attributed to the subject imports" and the Commission "ensure{s} that it is not attributing injury from other sources to the subject imports."[82] [83] Indeed, the

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F.3d 1345, 1357 (Fed. Cir. 2006); Taiwan Semiconductor Industry Ass'n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

[78] Statement of Administrative Action ("SAA") on Uruguay Round Agreements Act ("URAA"), H.R. Rep. 103-316, Vol. I at 851-52 (1994) ("{T}he Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports."); S. Rep. 96-249 at 75 (1979) (the Commission "will consider information which indicates that harm is caused by factors other than less-than-fair-value imports."); H.R. Rep. 96-317 at 47 (1979) ("in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;" those factors include "the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry"); accord Mittal Steel, 542 F.3d at 877.

[79] SAA at 851-52 ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports."); Taiwan Semiconductor Industry Ass'n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001) ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports ... . Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports." (emphasis in original)); Asociacion de Productores de Salmon y Trucha de Chile AG v. United States, 180 F. Supp. 2d 1360, 1375 (Ct. Int'l Trade 2002) ("{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury" or make "bright-line distinctions" between the effects of subject imports and other causes.); see also Softwood Lumber from Canada, Inv. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that "{i}f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, i.e., it is not an 'other causal factor,' then there is nothing to further examine regarding attribution to injury"), citing Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997) (the statute "does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.").

[80] S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

[81] See Nippon Steel Corp., 345 F.3d at 1381 ("an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the 'dumping' need not be the sole or principal cause of injury.").

[82] Mittal Steel, 542 F.3d at 877-78; see also id. at 873 ("While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured 'by reason of' subject imports, the Commission is not required to follow a single methodology for making that determination ... . {and has} broad discretion with respect to its choice of methodology.") citing United States Steel Group v. United States, 96 F.3d

Federal Circuit has examined and affirmed various Commission methodologies and has disavowed "rigid adherence to a specific formula."[84]

The Federal Circuit's decisions in Gerald Metals, Bratsk, and Mittal Steel all involved cases where the relevant "other factor" was the presence in the market of significant volumes of price-competitive nonsubject imports. The Commission interpreted the Federal Circuit's guidance in Bratsk as requiring it to apply a particular additional methodology following its finding of material injury in cases involving commodity products and a significant market presence of price-competitive nonsubject imports.[85] The additional "replacement/benefit" test looked at whether nonsubject imports might have replaced subject imports without any benefit to the U.S. industry. The Commission applied that specific additional test in subsequent cases, including the Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago determination that underlies the Mittal Steel litigation.

Mittal Steel clarifies that the Commission's interpretation of Bratsk was too rigid and makes clear that the Federal Circuit does not require the Commission to apply an additional test nor any one specific methodology; instead, the court requires the Commission to have "evidence in the record 'to show that the harm occurred 'by reason of' the LTFV imports,'" and requires that the Commission not attribute injury from nonsubject imports or other factors to subject imports.[86] Accordingly, we do not consider ourselves required to apply the replacement/benefit test that was included in Commission opinions subsequent to Bratsk.

The progression of Gerald Metals, Bratsk, and Mittal Steel clarifies that, in cases involving commodity products where price-competitive nonsubject imports are a significant factor in the U.S. market, the Court will require the Commission to give full consideration, with adequate explanation, to non-attribution issues when it performs its causation analysis.[87] [88]

1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75.

[83] Commissioner Pinkert does not join this paragraph or the following three paragraphs. He points out that the Federal Circuit, in Bratsk, 444 F.3d 1369, and Mittal, held that the Commission is required, in certain circumstances when considering present material injury, to undertake a particular kind of analysis of nonsubject imports, albeit without reliance on presumptions or rigid formulas. Mittal explains as follows:

> What Bratsk held is that "where commodity products are at issue and fairly traded, price-competitive, nonsubject imports are in the market," the Commission would not fulfill its obligation to consider an important aspect of the problem if it failed to consider whether nonsubject or non-LTFV imports would have replaced LTFV subject imports during the period of investigation without a continuing benefit to the domestic industry. 444 F.3d at 1369. Under those circumstances, Bratsk requires the Commission to consider whether replacement of the LTFV subject imports might have occurred during the period of investigation, and it requires the Commission to provide an explanation of its conclusion with respect to that factor.

542 F.3d at 878.

[84] Nucor Corp. v. United States, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); see also Mittal Steel, 542 F.3d at 879 ("Bratsk did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was 'by reason' of subject imports.").

[85] Mittal Steel, 542 F.3d at 875-79.

[86] Mittal Steel, 542 F.3d at 873 (quoting from Gerald Metals, 132 F.3d at 722), 875-79 & n.2 (recognizing the Commission's alternative interpretation of Bratsk as a reminder to conduct a non-attribution analysis).

[87] Commissioner Lane also refers to her dissenting views in Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates, Inv. Nos. 731-TA-1131-1134 (Final), USITC Pub. 4040 (Oct. 2008), for further discussion of Mittal Steel.

[88] To that end, after the Federal Circuit issued its decision in Bratsk, the Commission began to present published information or send out information requests in final phase investigations to producers in nonsubject countries that accounted for substantial shares of U.S. imports of subject merchandise (if, in fact, there were large nonsubject import suppliers). In order to provide a more complete record for the Commission's causation analysis, these

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial evidence standard. Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.[89]

B. Conditions of Competition and the Business Cycle

The following conditions of competition inform our analysis of whether there is a reasonable indication of material injury by reason of subject imports.

1. Demand Conditions

Apparent U.S. consumption of bottom mount refrigerators increased from *** units in 2008 to *** units in 2009 and *** units in 2010, a level *** percent higher than in 2008.[90] Demand for bottom mount refrigerators increased throughout the period examined notwithstanding the economic downturn, which reduced collective demand for all types of refrigerators by *** percent between 2008 and 2009, because consumers have shown an increasing preference for bottom mount refrigerators over other types of refrigerators. Accordingly, apparent U.S. consumption of bottom mount refrigerators as a share of apparent U.S. consumption of all refrigerators increased from *** percent in 2008 to *** percent in 2009 and *** percent in 2010.[91] The increasing popularity of bottom mount refrigerators among consumers reportedly stems from their distinctive ergonomics, with the entire refrigerator compartment at eye level, and the perception that they are more stylish and modern than other types of refrigerators.[92]

Competition in the U.S. market occurs at two levels of trade -- sales by domestic producers and importers to retailer/distributors and sales by retailers to consumers. Domestic manufacturers and importers made nearly all their U.S. shipments to retailer/distributors, which include large retailers such as ***, ***, ***, Best Buy, Home Depot, Lowe's, and Sears.[93] According to LG, Best Buy, Home Depot, Lowe's, and Sears account for 80 percent of U.S. sales of bottom mount refrigerators.[94] Domestic producers and importers sell bottom mount refrigerators to many of the same major retailers, with *** each ranking these retailers as among their top ten customers.[95] Consistent with our practice of examining prices for the first arms-length transactions in the U.S. market, we have focused our analysis of competition and pricing in the bottom mount refrigerator market on sales by domestic producers and importers to retailer/distributors.[96] Nevertheless, we have also considered evidence concerning consumer

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requests typically seek information on capacity, production, and shipments of the product under investigation in the major source countries that export to the United States. The Commission plans to continue utilizing published or requested information in final phase investigations in which there are substantial levels of nonsubject imports.

[89] Mittal Steel, 542 F.3d at 873; Nippon Steel Corp., 458 F.3d at 1350, citing U.S. Steel Group, 96 F.3d at 1357; S. Rep. 96-249 at 75 ("The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.").

[90] CR/PR at Tables IV-6, C-1.

[91] Compare CR/PR at Table C-1 with id. at Table C-4.

[92] CR at II-10-11, 14-15; PR at II-6, 8; Conference Transcript at 24, 27 (Bitzer), 103-4 (Herring).

[93] CR at II-2; PR at II-2; CR/PR at Tables II-1-2.

[94] CR at II-2; PR at II-2.

[95] CR/PR at Table II-2.

[96] See Sodium Hexametaphosphate from China, Inv. No. 731-TA-1110 (Final), USITC Pub. 3984 (March 2008) at 13 n.91; Kosher Chicken from Canada, Inv. No. 731-TA-1062 (Preliminary), USITC Pub. 1062 (January 2004) at 15 n.120.

behavior in light of all parties' agreement that consumer preferences at retail drive retailers' purchasing decisions.[97]

Consumers select among competing models based on a number of considerations. Style, design, and "fit, finish, and feel" are considerations, as emphasized by respondents.[98] The features available on competing models at a similar price point (e.g., external ice and water dispensers, LED lighting, and premium shelving) are another consideration, as emphasized by petitioner.[99] LG and Samsung agree that features are an important selection criterion, claiming, alternatively, that innovative features have played an important role in attracting consumers to their bottom mount refrigerators[100] and that the same features are offered in subject and domestic products.[101]

Consumer demand has also been driven in part by the increasing prevalence and duration of promotional periods, such as the increasingly important "Black Friday" sales event associated with the day after Thanksgiving each year.[102] LG claims that about 55 to 60 percent of consumer demand for refrigerators is generated by the "replacement market" -- consumers who need to replace a broken refrigerator quickly -- while 40 to 45 percent of consumer demand is generated by the "upgrade market" -- consumers who are remodeling their kitchens or otherwise looking to upgrade their refrigerators.[103] In LG's view, consumers in the "upgrade market" are more motivated to select a bottom mount refrigerator model based on promotional offers and discounts because their need for a new refrigerator is less urgent than that of consumers in the replacement market, although consumers in the replacement market may also "look for a deal."[104]

2. Supply Conditions

There are currently five known U.S. producers of bottom mount refrigerators -- GE, Haier, Sub-Zero, Viking, and Whirlpool.[105] Whirlpool alone, however, accounted for *** percent of reported domestic production in 2010.[106] Whirlpool has produced bottom mount refrigerators since at least 1960, but they were unpopular in the 1960s and 1970s due to capacity limitations and poor energy efficiency.[107] According to Whirlpool, bottom mount refrigerator sales only "took off significantly" after Maytag introduced the first large capacity bottom-mount refrigerator in 2003, and the market received "another boost" with Maytag's introduction in 2006 of the first bottom mount refrigerator with an external ice and

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[97] See CR at II-10-11; PR at II-6.

[98] CR at II-10; PR at II-6; LG's Postconference Brief at 4; Conference Transcript at 115 (Politeski), 174 (Baird); see also Petitioner's Postconference Brief at 20 and Exhibit 2 at 65 (***).

[99] CR at II-10; PR at II-6; Petitioner's Postconference Brief at 10.

[100] Conference Transcript at 105-6 (Herring), 113-14 (Politeski), and 127 (Baird).

[101] LG's Postconference Brief at 4 and 6.

[102] CR at II-10, 12; PR at II-6-7; Conference Transcript at 97-98 (Bitzer), 109-10 (Herring), 134 (Baird), 152 (Herring). Also, as part of the 2009 American Recovery and Reinvestment Act, the U.S. Department of Energy made $300 million available to states and territories to promote the purchase of Energy Star qualified appliances. CR at II-13; PR at II-7-8. Respondents allege that this program, known as "Cash for Appliances," boosted demand for bottom mount refrigerators in the first half of 2010, but had the effect of borrowing sales from the second half of the year. Id. According to Home Depot, however, the program has not ended, and $72 million of the original $300 million remains available to consumers. Conference Transcript at 184 (Baird).

[103] CR at II-11; PR at II-6.

[104] Conference Transcript at 108-109 (Herring).

[105] CR/PR at Table III-1.

[106] CR/PR at Table III-1.

[107] Conference Transcript at 83 (Bitzer).

water dispenser, called "Ice-2-0."[108] The domestic industry's share of apparent U.S. consumption declined from *** percent in 2008 to *** percent in 2009 and *** percent in 2010.[109]

LG and Samsung entered the U.S. bottom mount refrigerator market in 2007.[110] A majority of bottom mount refrigerators sold in the U.S. market during the period examined were subject imports from Korea and Mexico, which increased their share of apparent U.S. consumption from *** percent in 2008 to *** percent in 2009 and *** percent in 2010.[111] Most subject imports were both manufactured and imported by LG and Samsung, which produce bottom mount refrigerators in both Korea and Mexico.[112] As importers, LG and Samsung accounted for *** percent of reported subject imports from Korea and *** percent of reported subject imports from Mexico in 2010.[113]

The only other significant importer of subject bottom mount refrigerators is ***, which accounted for *** percent of reported subject imports from Korea and *** percent of reported subject imports from Mexico in 2010.[114] ***.[115]

Nonsubject imports accounted for an insignificant and declining share of apparent U.S. consumption during the period examined, declining from *** percent in 2008 to *** percent in 2009 and *** percent in 2010.[116] The only sources of reported nonsubject imports were ***.[117]

3. Substitutability

As detailed in section V.B. above, we have found that there is some degree of substitutability between subject imports and the domestic like product. A majority of questionnaire respondents reported that subject imports and the domestic like product are "always" or "frequently" used interchangeably.[118] All parties have presented price comparisons of domestically produced and subject imported bottom mount refrigerators that allegedly compete in the market,[119] and most major retailers carry both

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[108] Conference Transcript at 26-27, 83 (Bitzer); see also id. at 126 (Baird) (agreeing that Maytag introduced the first French door bottom mount refrigerator with an ice and water dispenser, called the Trio). Whirlpool sells bottom mount refrigerators in the United States under its Whirlpool, KitchenAid, Jenn-Air, Maytag, and Amana brands. Petition at 8.

[109] CR/PR at Table IV-6.

[110] Samsung's Postconference Brief at 6; Conference Transcript at 26 (Bitzer). The record does not support respondents' claim that LG and Samsung "virtually created" the French door bottom mount refrigerator market, forcing Whirlpool to "dislodge the incumbent competitors." LG's Postconference Brief at 2; see also Conference Transcript at 202 (Connelly). Whirlpool introduced the first large capacity French door bottom mount refrigerator in 2003 and the first bottom mount refrigerator with an external ice and water dispenser in 2006, resulting in sales of 1.3 million units in 2006, before LG or Samsung had even entered the U.S. market. Conference Transcript at 26, 83 (Bitzer), 113 (Politeski), 126 (Baird); Petitioner's Conference Exhibit 3.

[111] CR/PR at Table IV-6.

[112] CR at VII-2, 6; PR at VII-2, 4.

[113] CR/PR at Table IV-1.

[114] CR/PR at Table VI-1.

[115] CR at IV-1 n.2; PR at IV-1 n.2.

[116] CR/PR at Table IV-6.

[117] CR at IV-3; PR at IV-2.

[118] CR/PR at Table II-3.

[119] See, e.g., Petition, at 127-128; Petitioner's Conference Exhibits 7 and 8; Petitioner's Postconference Brief at 11; Samsung's Conference Exhibit at 2; Samsung's Postconference Brief at Exhibit 15; LG's Postconference Brief at Exhibit 7; Home Depot's Postconference Brief at 7, Exhibit 3.

domestically produced and subject imported bottom mount refrigerators.[120] In addition, our pricing data indicate that five of the seven products for which pricing data were collected were sold by both domestic producers and subject importers in the domestic market during the period examined.[121]

Although most questionnaire respondents reported that differences other than price are "frequently" or "always" important,[122] other evidence indicates that price is an important factor in the U.S. bottom mount refrigerator market. Manufacturers control the retail prices of their bottom mount refrigerators by negotiating minimum advertised prices ("MAPs") with retailers and punishing retailers for advertising a model at a price lower than the MAP for that model with financial penalties or by cutting off refrigerator supplies.[123] Home Depot claims that, as a practical matter, retailers cannot sell in excess of MAP, due to intense price competition on comparable models.[124] It is unlikely that manufacturers would go to such lengths to control the advertised prices of their bottom mount refrigerators if price were not an important factor in the bottom mount refrigerator market.

The growing importance of promotional events in the bottom mount refrigerator market, including President's Day, Memorial Day, Labor Day, July 4th, Black Friday, and Columbus Day promotions, further indicates that price is an important factor in the market.[125] According to Home Depot, manufacturers plan such promotions months in advance and support the discounting of certain models by retailers by reducing the MAP of the models and supplying additional promotional support to preserve, at least in part, the retailers' profit margins on the discounted models.[126] LG claims that it designed and produced a "special" bottom mount refrigerator model for sale during Black Friday 2010 at a price that was 40 percent lower than the price of its "regular" model with many similar features.[127] It seems unlikely that manufacturers would go to such lengths to plan sales promotions, and sales promotions could not have gained such prominence, if price were not an important factor in the bottom mount refrigerator market.

An internal document created by LG titled "***,"[128] ***.[129] ***."[130] We find this document, dating from the very year LG entered the U.S. bottom mount refrigerator market, to be compelling evidence that LG itself viewed price as an important means of penetrating the U.S. market.[131]

Based on the above evidence, we find that price is an important factor in the bottom mount refrigerator market.

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[120] CR/PR at Table II-2.

[121] CR/PR at Tables V-3-15.

[122] CR/PR at Table II-4.

[123] CR at V-3; PR at V-2.

[124] Conference Transcript at 131 (Baird).

[125] CR at II-10, 12 & n.25; PR at II-6-7 & n.25. *** reported that such promotional events became increasingly important during the period examined, and LG agreed that consumers are more receptive to major appliance purchases during the Black Friday season. Id.

[126] CR at V-3; PR at V-2.

[127] LG's Postconference Brief at 19, 23-24, Exhibit 5.

[128] Petitioner's Postconference Brief, Exhibit 2 at 2.

[129] Petitioner's Postconference Brief, Exhibit 2 at 2, 65.

[130] Petitioner's Postconference Brief, Exhibit 2 at 65; see also id., Exhibit 2 at 69.

[131] Petitioner's Postconference Brief, Exhibit 2 at 65. Although Home Depot claims that consumers are less price sensitive when shopping for a bottom mount refrigerator priced over $2,000, Conference Transcript at 129 (Baird), the average unit value of U.S. shipments of both the domestic like product and subject imports was well under $2,000. See CR/PR at Tables C-1, 5; see also id. at Table V-17.

C. Volume of Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[132]

We find that the volume of cumulated subject imports from Korea and Mexico increased significantly, both absolutely and relative to apparent U.S. consumption and production, over the period examined. Between 2008 and 2010, cumulated subject imports increased *** percent, from *** units in 2008 to *** units in 2009 and *** units in 2010, while U.S. shipments of subject imports increased *** percent, from *** units in 2008 to *** units in 2009 and *** units in 2010.[133] As U.S. shipments of subject imports grew faster than apparent U.S. consumption, resulting in the market share of subject imports increasing from *** percent in 2008 to *** percent in 2009 and *** percent in 2010.[134] Of the *** percentage points of market share gained by subject imports during the period examined, *** percentage points were captured from the domestic industry and only *** percentage points were captured from nonsubject imports, which had an insignificant presence in the U.S. market during the period.[135] Subject imports exceeded domestic industry production throughout the period examined and, as a percentage of domestic production, increased from *** percent in 2008 to *** percent in 2009 and *** percent in 2010.[136]

Although we recognize that non-price factors play a significant role in the U.S. bottom mount refrigerator market, we find that price was a significant factor behind the *** percentage point shift in market share from the domestic industry to subject imports during the period examined,[137] contrary to respondents' argument that the shift was entirely attributable to non-price factors.[138] Our pricing data, discussed in the following section, lend additional support to our finding that price was a factor in the significant increase in subject import volume and market share during the period examined.[139]

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[132] 19 U.S.C. § 1677(7)(C)(i).

[133] CR/PR at Tables IV-4, 5.

[134] CR/PR at Table IV-6.

[135] CR/PR at Table IV-6.

[136] CR/PR at Table IV-7.

[137] See Section VI.B, supra.

[138] See Samsung's Postconference Brief at 13; LG's Postconference Brief at 36.

[139] We are unpersuaded by respondents' argument that the increase in subject import volume cannot be deemed significant because much of the increase occurred in a segment of the market -- multi-door bottom mount refrigerators with a capacity of 25.5 cubic feet or more -- that was allegedly under-served by the domestic industry. Samsung's Postconference Brief at 14; LG's Postconference Brief at 35-36. There is no justification for respondents' contention that bottom mount refrigerators with a capacity of 25.5 cubic feet or more constitute a distinct segment of the bottom mount refrigerator market. To the contrary, respondents themselves asked the Commission to collect pricing data on two bottom mount refrigerator products, products 6 and 7, that were defined by respondent as consisting of bottom mount refrigerators with capacities ranging from 22.5 to 26 cubic feet. CR at V-7; PR at V-4. Moreover, a significant quantity of sales of both domestically produced and subject imported bottom mount refrigerators satisfying the definitions of products 6 and 7 were reported in every quarter of the period examined, indicating a significant degree of competition between the domestic like product and subject imports for sales of these products. See CR/PR at Tables V-13-16. There was a similar degree of competitive overlap between the domestic like product and subject imports with respect to product 4, defined to include bottom mount refrigerators with a capacity of 26.5 to 27.4 cubic feet, with a significant quantity of sales of both domestically produced and subject imported bottom mount refrigerators in every quarter for which sales were reported. See id. at Tables V-9-10. Thus, the record does not support respondents' argument that subject imported bottom mount refrigerators with a capacity of 25.5 cubic feet or more largely did not compete with the domestic like product.

We conclude that the volume of cumulated subject imports and the increase in that volume are significant both in absolute terms and relative to consumption and production in the United States.

D. Price Effects of the Subject Imports

> Section 771(C)(ii) of the Act provides that, in evaluating the price effects of subject imports, the Commission shall consider whether – (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[140]

As addressed in section VI.B.3 above, the record indicates that there is some degree of substitutability in demand between subject imports and the domestic like product and that price is an important consideration in purchasing decisions.

One domestic producer and three importers of subject imports from Korea and Mexico provided usable quarterly net U.S. f.o.b. selling price data for seven products, although not all firms reported pricing for all products for all quarters.[141] With respect to each product, the Commission requested pricing data for all sales satisfying the definition of the product (the "A" products) and for sales of the top-selling stock-keeping unit ("SKU") satisfying the definition of the product (the "B" products).[142] Reported pricing data accounted for approximately *** percent of U.S. producers' U.S. shipments of bottom mount refrigerators, *** percent of U.S. shipments of subject imports from Korea, and *** percent of U.S. shipments of subject imports from Mexico in 2010.[143]

The Commission collected pricing data net of direct discounts, which are discounts, incentives, rebates, and other adjustments tied to the specific SKU being sold, but not indirect discounts, which are allocated discounts, incentives, allowances, and rebates that could include volume discounts based on

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We are similarly unpersuaded by Samsung's argument that the increase in subject import volume attributable to subject imported bottom mount refrigerators in the "jumbo" capacity segment cannot be deemed significant because "U.S. producers do not offer a bottom mount refrigerator in this size range." Samsung Postconference Brief at 14-15. Samsung itself compares a Whirlpool model with LG and Samsung models competing in the "jumbo" segment of the bottom mount refrigerator market. Id. at 26. Moreover, witnesses for LG testified at the conference that Whirlpool's 27 cubic foot bottom mount refrigerator model competes with LG's 28 cubic foot model and Samsung's 29 cubic foot model in the "big capacity" segment. See Conference Transcript at 107, 151 (Herring), 152 (Cunningham); see also Samsung Exhibit Accompanying the Testimony of James Politeski at 2. There also is evidence that a bottom mount refrigerator's practical capacity can differ from its rated capacity depending on the model's features and layout, such that a one to two cubic foot difference between bottom mount refrigerator models in terms of their rated capacity could make no practical difference in terms of their usable capacity. See Samsung's Postconference Brief at 33; LG's Postconference Brief at 6-7.

[140] 19 U.S.C. § 1677(7)(C)(ii).

[141] CR at V-6-8; PR at V-3-4.

[142] CR at V-7-8; PR at V-4. An SKU is a number or code corresponding to a specific model.

[143] CR at V-8; PR at V-4-5. We disagree with LG's claim that the Commission's pricing data are "problematic" because they "relate to relatively few sales" and do not permit "apples-to-apples" price comparisons. LG's Postconference Brief at 12-13. Our pricing data cover a significant volume of bottom mount refrigerator sales during the period examined, including *** of U.S. shipments of subject imports from Korea, and permit a significant number of quarterly price comparisons. CR at V-8; PR at V-4-5; CR/PR at Table V-18. Commission staff consulted respondents concerning the products for which pricing data should be collected and collected pricing data on two products suggested by respondents. CR at V-7; PR at V-4.

nonsubject products, including different types of household appliances or electronics.[144] Petitioner asked the Commission to collect pricing data net only of direct discounts because indirect discounts are difficult to quantify and allocate and thus subject to manipulation.[145] GE and Whirlpool reported pricing data net of direct discounts, consistent with the Commission's instructions, but LG and Samsung did not provide quarterly product specific data on direct discounts.[146] Instead, LG and Samsung provided an annual estimate of the direct discounts covering all products and Commission staff adjusted their reported pricing data to account for these estimated discounts.[147] Although we rely on LG's and Samsung's pricing data as adjusted for their estimated direct discounts as the facts available, we expect LG and Samsung to report pricing data in the manner requested by the Commission in any final phase of the investigations.[148]

The sales price data on the record indicate that subject imports pervasively undersold the domestic like product during the period examined at significant margins of underselling.[149] Between January 2008 and December 2010, subject imports undersold the domestic like product in *** of *** quarterly comparisons, or *** percent of the time, with respect to all sales satisfying the product definitions (i.e., the "A" products), at margins ranging from *** to *** percent.[150] Over the same period, subject imports undersold the domestic like product in *** of *** quarterly comparisons, or *** percent of the time, with respect to sales of the top-selling SKUs satisfying the product definitions (i.e., the "B" products), at margins ranging from *** to *** percent.[151] Based on this evidence, and given the importance of price to purchasing decisions, we find that subject import price underselling was significant during the period examined.[152]

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[144] CR at V-5, 8; PR at V-3, 5. In any final phase of the investigations, the Commission will examine whether the prices used in quarterly pricing comparisons should be net of indirect discounts. In terms of data gathering, the parties should anticipate that in any final phase, they will be asked to supply quarterly average prices for each pricing product net of direct discounts and, separately, net of direct and indirect discounts, and to explain their methodology for allocating indirect discounts.

[145] CR at V-8; PR at V-5; Petition at 129. The Commission nevertheless requested indirect discounts as a percentage of pricing product values on a product specific basis in 2010, as well as the total value of indirect discounts applicable to bottom mount refrigerators in each year of the period examined, together with the value of sales to which the indirect discounts applied. CR/PR at Tables V-1-2.

[146] CR at V-9; PR at V-5.

[147] CR at V-9-10; PR at V-5.

[148] 19 U.S.C. § 1677e.

[149] We find no need to address petitioner's argument that by "dumping features with bottom mounts, LG and Samsung have essentially destroyed the value of this market." Conference Transcript at 35 (Bitzer); see also Petition at 120. Our pricing data were collected on the basis of pricing products defined to include specific features, and thus permit probative price comparisons between domestically produced and subject imported models possessing similar features. See CR at V-6-7; PR at V-3-4. Petitioner and respondents may propose different or additional pricing products possessing different combinations of features in any final phase of the investigations in their written comments on draft questionnaires pursuant to section 207.20(b) of the Commission's rules. 19 C.F.R. § 207.20(b).

[150] CR/PR at Table V-18.

[151] CR/PR at Table V-18

[152] We find some evidence that price was a factor in ***. CR at V-43-44; PR at V-9. ***. CR at V-44; PR at V-9. Although petitioner concedes that *** bottom mount refrigerators to Whirlpool's, Petition at 132, the record indicates that price may also have influenced ***. Id. Moreover, petitioner claims that the Commission's pricing data show that LG sold *** at prices significantly lower than the prices at which LG sold comparable LG-branded bottom mount refrigerators to other retailers and the prices of comparable Whirlpool models. Petitioner's Postconference Brief at 26-27 (***). We intend to further investigate petitioner's lost sales allegation *** in any final phase of these investigations.

We also find evidence that subject imports depressed the prices of the domestic like product. Between the first and last quarters for which pricing data are available, the average price of sales of domestically produced bottom mount refrigerators declined with respect to eight of ten products, by *** to *** percent.[153] Subject import underselling was more prevalent than subject import overselling with respect to seven of these products, with a mixed pattern of under and overselling with respect to one of the products.[154] [155]

We also find evidence that subject imports suppressed domestic like product prices.[156] The domestic industry's cost of goods sold as a share of its net sales increased from *** percent in 2008 to *** percent in 2009 and *** percent in 2010.[157]

In performing our analysis as to underselling, price depression, and price suppression, we have declined to rely on certain sources of data offered by the parties. Respondents argue that the Commission should analyze its pricing data net of both direct and indirect discounts and claim that such an analysis shows a preponderance of subject import overselling.[158] As addressed above, the Commission collected pricing data net of direct discounts but not net of indirect discounts.[159] Although the Commission requested total indirect discounts for each pricing product in 2010 and the total value of indirect discounts for each year of the period examined, together with the total value of the goods to which the indirect discounts applied, these data are no substitute for the quarter- and product-specific data on indirect discounts that would be necessary to adjust the pricing data to reflect indirect discounts in a probative way.[160] We therefore place little weight on respondents' effort to analyze pricing data net of indirect discounts for purposes of the present analysis, but we will consider whether to rely on pricing data net of indirect discounts in any final phase of the investigations.

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[153] CR/PR at Table V-17. The average price of domestically produced bottom mount refrigerators declined *** percent with respect to product 1A, *** percent with respect to product 2A, *** percent with respect to product 2B, *** percent with respect to product 4A, *** percent with respect to product 6A, *** percent with respect to product 6B, *** percent with respect to product 7A, and *** percent with respect to product 7B. Id.

[154] CR/PR at Tables V-3-6, 9, 13-16. Subject imports undersold the domestic like product in *** of *** quarterly comparisons with respect to Products 1A and 1B, in *** of *** quarterly comparisons with respect to products 2A and 2B, in *** of *** quarterly comparisons with respect to product 4A, in *** of *** quarterly comparisons with respect to product 6A, in *** of *** quarterly comparisons with respect to product 6B, in *** of *** quarterly comparisons with respect to product 7A, and in *** of *** quarterly comparisons with respect to product 7B. Id. As developed to this point, the record does not confirm respondents' argument that it is "normal" for the price of a bottom mount refrigerator model to decline over the bottom mount refrigerator's "life cycle." Samsung's Postconference Brief at 21; LG's Postconference Brief at 22-23. The prices of six products for which pricing data were collected did not decline over the period examined. See CR/PR at Table V-17. We intend to further investigate this issue in any final phase of the investigations.

[155] Having found significant underselling and some evidence of price depression, Commissioner Aranoff does not reach price suppression.

[156] Commissioner Pinkert does not join the finding with respect to price suppression.

[157] CR/PR at Table C-5. We are unpersuaded by respondents' argument that the increase in the domestic industry's ratio of cost of goods sold to net sales resulted from the declining average unit value of the domestic industry's export sales and not subject import competition in the U.S. market. See Samsung's Postconference Brief at 21; LG's Postconference Brief at 27. ***. CR at VI-1 n.2; PR at VI-1 n.2. Because the decline in the average unit value of domestic industry exports relative to domestic industry U.S. shipments may reflect differences in product mix, the decline may not explain the increase in the domestic industry's ratio of cost of goods sold to net sales.

[158] CR at V-10; PR at V-5; Samsung's Postconference Brief at 16-17, Exhibit 9; LG's Postconference Brief at 20, 26.

[159] CR at V-8; PR at V-5.

[160] CR at V-10; PR at V-5; CR/PR at Tables V-1-2. ***. CR at V-9; PR at V-5; CR/PR at Table V-2, note. ***. Id.

We also place little weight on the price comparisons based on retail pricing data collected by NDP, a leading market research firm that compiles data for U.S. retail transactions involving appliances, which were cited by both petitioner and respondents.[161] First, in accordance with our practice of examining prices for the first arms-length transactions in the U.S. market, we have focused our analysis of price competition in the bottom mount refrigerator market on sales by domestic producers and importers to retailer/distributors.[162] Subject import underselling at this level of trade can result in adverse price effects, irrespective of subject import underselling at the retail level, by creating a financial incentive for retailer/distributors to promote subject imports to consumers over the domestic like product or provide more floor space for the display of subject imports and less floor space for the display of the domestic like product.[163] Moreover, prices on sales by domestic producers to retailer/distributors would have a more direct financial impact on the domestic industry than prices on sales by retailers to consumers.

Second, we find that the retail price comparisons presented by the parties are flawed. Given the great variety of bottom mount refrigerator models possessing different capacities and different combinations of features, as well as the variety of bottom mount refrigerator brands aimed at different price points, price comparisons based on the average retail price of all bottom mount refrigerators or certain broad categories of bottom mount refrigerators are significantly affected by product mix and therefore have little probative value.[164] Price comparisons based on the average retail prices of specific models are similarly of little probative value because the outcome of such comparisons can be readily influenced by the specific models selected for comparison. For example, respondents dispute petitioner's comparisons of average retail prices on specific models because petitioner allegedly inappropriately compared inferior subject imported models to superior domestically produced models, compared newer domestically produced models to discontinued subject imported models, and compared a "regular" domestically produced model with a subject imported model that was specially designed for sale during a Black Friday promotion.[165] Petitioner disputes respondents' comparisons of retail prices on specific models on similar grounds.[166]

Finally, we observe that the retail pricing data collected by NPD do not include the retail prices on bottom mount refrigerators sold by Home Depot, which is the third largest retailer of home appliances in the United States after Sears and Lowe's.[167] Home Depot does not participate in NPD's retail price collection activities.[168]

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[161] CR at V-43; PR at V-9; Petition at 133-34; Petitioner's Conference Exhibits 7-9; Conference Transcript at 37-39 (Bitzer); Samsung's Postconference Brief at 24-28, Exhibit 13; LG's Postconference Brief at 13-16, Exhibit 7.

[162] See Sodium Hexametaphosphate from China, Inv. No. 731-TA-1110 (Final), USITC Pub. 3984 (March 2008) at 13 n.91; Kosher Chicken from Canada, Inv. No. 731-TA-1062 (Preliminary), USITC Pub. 1062 (January 2004) at 15 n.120.

[163] See Petitioner's Postconference Brief at 26. A *** analysis provided by petitioner concludes that LG and Samsung offer a better "net margin rate" than Whirlpool. Petition at Exhibit 38. Petitioner also provided survey data indicating that retailers *** significantly reduced the floor space used to display Whirlpool's bottom mount refrigerators in favor of LG's and Samsung's bottom mount refrigerators between the second quarter of 2008 and the fourth quarter of 2010. See Petitioner's Responses to ITC Questions at Question 5, Attachment A.

[164] See CR at I-10, 15; PR at I-8, 11; CR/PR at Table V-17 (weighted-average f.o.b. prices on U.S. sales of domestically produced bottom mount refrigerators satisfying the pricing product definitions ranged from $***-$*** for product 1A, a two-door bottom mount refrigerator model, to $***-$*** for products 2A and 2B, four-door bottom mount refrigerator models); Respondents' Conference Exhibits of Daniel Klett at 6 (showing different Whirlpool brands aimed at different price points).

[165] See LG's Postconference Brief at 18-19; Samsung's Postconference Brief at 24, Exhibit 11.

[166] See Petitioner's Answers to Questions from ITC Staff at question 6.

[167] Conference Transcript at 123, 172 (Baird).

[168] Conference Transcript at 172 (Baird). ***. CR/PR at Table II-2.

For the foregoing reasons, we find for purposes of the preliminary phase of these investigations that subject imports undersold the domestic like product to a significant degree during the period examined and that there is evidence that subject imports depressed and suppressed domestic like product prices.

E. **Impact of the Subject Imports**[169]

Section 771(7)(C)(iii) of the Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[170] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[171]

Between 2008 and 2010, most measures of the domestic industry's performance declined significantly. The domestic industry's capacity, production, and rate of capacity utilization were all slightly higher in 2010 than in 2008, marking a recovery from 2009, when production and capacity utilization dipped below 2008 levels.[172] Domestic industry capacity increased *** percent over the period examined, going from *** units in 2008 to *** units in 2009, and then increasing to *** units in 2010.[173] Domestic industry production increased irregularly *** percent over the period, declining from *** units in 2008 to *** units in 2009, before increasing to *** units in 2010.[174] Domestic industry capacity utilization followed a similar trend, declining from *** percent in 2008 to *** percent in 2009, before increasing to *** percent in 2010, a level *** higher than in 2008.[175]

Despite the *** percent increase in apparent U.S. consumption over the period examined, the domestic industry's U.S. shipments declined from *** units in 2008 to *** units in 2009, before increasing to *** units in 2010, a level still *** percent lower than in 2008.[176] Consequently, the industry's share of apparent U.S. consumption steadily declined *** percentage points over the period, from *** percent in 2008 to *** percent in 2009 and *** percent in 2010.[177] Domestic industry

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[169] Commerce initiated these antidumping duty investigations based on estimated dumping margins of 34.16 to 61.82 percent for bottom mount refrigerators imported from Korea and 23.10 to 183.18 percent for bottom mount refrigerators imported from Mexico. CR at I-5; PR at I-4.

[170] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.").

[171] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Invs. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

[172] CR/PR at Table C-5.

[173] CR/PR at Table C-5.

[174] CR/PR at Table C-5.

[175] CR/PR at Table C-5.

[176] CR/PR at Table C-5. Domestic industry end-of-period inventories declined from *** units in 2008, equivalent to *** percent of U.S. shipments that year, to *** units in 2009, equivalent to *** percent of U.S. shipments that year, but increased to *** units in 2010, equivalent to *** percent of U.S. shipments that year. Id.

[177] CR/PR at Table IV-6.

employment declined from *** production related workers ("PRWs") in 2008 to *** PRWs in 2009, before increasing to *** PRWs in 2010, a level still *** percent lower than in 2008.[178]

The domestic industry's financial performance declined just as significantly. The domestic industry's net sales value declined from $*** in 2008 to $*** in 2009, before increasing to $*** in 2010, a level *** percent lower than in 2008.[179] Its operating income declined from $*** in 2008, equivalent to *** percent of net sales, to $*** in 2009, equivalent to *** percent of net sales, and then to a loss of $*** in 2010, equivalent to negative *** percent of net sales.[180]

The domestic industry's capital expenditures declined from $*** in 2008 to $*** in 2009 before increasing to $*** in 2010, a level still *** percent lower than in 2009.[181] The industry's R&D expenditures increased, however, from $*** in 2008 to $*** in 2009 and $*** in 2010.[182]

For purposes of the preliminary phase of these investigations, we find that there is a causal nexus between subject imports and the deteriorating condition of the domestic industry. Subject imports captured significant market share from the domestic industry and undersold the domestic like product to a significant degree, thereby contributing to the domestic industry's declining U.S. shipments, net sales value, employment, and profitability.

We have considered whether there are other factors that may have had an adverse impact on the domestic industry during the period examined to ensure that we are not attributing injury from such other factors to the subject imports. The economic recession cannot explain the domestic industry's declining performance during the period examined given that apparent U.S. consumption increased *** percent during the period.[183] In addition, nonsubject imports had no significant presence in the U.S. market during the period examined and declined as a share of apparent U.S. consumption from *** percent in 2008 to *** percent in 2009 and *** percent in 2010.[184] [185]

The record does not support respondents' assertion that "Whirlpool has ***."[186] The evidence of record in the preliminary phase of these investigations does not confirm respondents' claim that the Commission should treat the Energy Efficient Appliance federal tax credits that Whirlpool booked during the period examined as "ready" cash, which allegedly allowed Whirlpool to lower bottom mount

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[178] CR/PR at Table C-5. Hours worked declined from *** hours in 2008 to *** hours in 2009, but increased to *** hours in 2010, a level still *** percent lower than in 2008. Id. Productivity in units per 1,000 hours, however, increased over the period examined, from *** in 2008 to *** in 2009 and *** in 2010. Id.

[179] CR/PR at Table C-5. The domestic industry's net sales volume declined from *** units in 2008 to *** units in 2009 before increasing to *** units in 2010, a level still *** percent lower than in 2008. Id. The industry's net sales value declined by more than its net sales volume because the average unit value of net sales declined *** percent over the period examined, from $*** in 2008 to $*** in 2009 and $*** in 2010. Id.

[180] CR/PR at Table C-5.

[181] CR/PR at Table C-5.

[182] CR/PR at Tables VI-5.

[183] CR/PR at Table IV-6.

[184] CR/PR at Table IV-6.

[185] Based on the record evidence in these investigations, Commissioner Pinkert finds, for purposes of the analysis required by the Federal Circuit in Bratsk and Mittal Steel, that price competitive, nonsubject imports were not a significant factor in the U.S. market for bottom mount refrigerators during the period under examination. At no point during the period did nonsubject imports constitute more than *** percent of U.S. apparent consumption, and such imports declined significantly over the period in terms of both absolute volume and market share. CR/PR at Table C-1.

[186] LG's Postconference Brief at 46; see also LG's Postconference Brief at 39-43; Samsung's Postconference Brief at 42-47.

refrigerator prices.[187] Instead, the evidence indicates that Whirlpool was unable to use the tax credits accrued during the period examined.[188] Respondent's other claims of irregularities in Whirlpool's reported financial data are similarly unsupported by the record.[189] We are satisfied that Whirlpool has accurately reported its financial data for purposes of the preliminary phase of these investigations.

In sum, subject import volume and market share increased significantly during the period examined, undersold the domestic like product to a significant degree, leading to significant declines in most indicators of domestic industry performance. Therefore, for purposes of the preliminary phase of these investigations, we conclude that subject imports had a significant adverse impact on the domestic industry.

CONCLUSION

For the foregoing reasons, and based on the record in the preliminary phase of these investigations, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of subject imports from Korea that are allegedly subsidized and sold at LTFV and by reason of subject imports from Mexico that are allegedly sold at LTFV.

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[187] See Samsung's Postconference Brief at 43.

[188] CR at VI-9; Petitioner's Postconference Brief at 15. We note also that the preliminary phase record does not confirm that the tax credits enable Whirlpool to lower prices. We intend to investigate this issue in any final phase of the investigations.

[189] Specifically, petitioner has reported that the fines Whirlpool paid in conjunction with the compressor antitrust settlement were charged to Whirlpool's Latin American Region, where the antitrust activities took place, and therefore are not reflected in the financial data reported for its bottom mount refrigerator operations; that the financial data reported for Whirlpool's bottom mount refrigerator operations reflect no recall expenses because there were no recalls of its bottom mount refrigerators; and that none of the restructuring charges associated with the closure of Whirlpool's Evansville, Indiana top mount refrigerator plant were allocated to its bottom mount refrigerator operations, ***. Petitioner's Answers to Questions from ITC Staff, Question 8-10.

Respondents also contend that Whirlpool allocated a disproportionate share of its total sales, general, and administrative ("SG&A") expenses to bottom mount refrigerators, Samsung's Postconference Brief at 41; LG's Postconference Brief at 41, but the manner in which Whirlpool reported its SG&A had no effect on its reported operating income. CR at VI-4 & n.3; PR at VI-1 & n.3. ***. Id.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed on March 30, 2011, by Whirlpool Corp. ("Whirlpool"), alleging that an industry in the United States is materially injured or is threatened with material injury, by reason of imports from Korea and Mexico of bottom mount combination refrigerator-freezers ("bottom mount refrigerators")[1] that are allegedly sold in the United States at less-than-fair-value ("LTFV") and subsidized by the Government of Korea. Information relating to the background of these investigations is provided below.[2]

Effective date	Action
March 30, 2011	Petition filed with Commerce and the Commission; Commission institutes investigation (76 FR 19125, April 6, 2011)
April 20, 2011	Commission's conference[1]
April 26, 2011	Initiation of countervailing duty investigation on Korea by Commerce (76 FR 23298)
April 26, 2011	Initiation of antidumping investigations by Commerce (76 FR 23281)
May 13, 2011	Commission's vote
May 16, 2011	Commission's determinations transmitted to Commerce
May 23, 2011	Commission's views transmitted to Commerce

[1] A list of witnesses that appeared at the conference is presented in app. B.

ORGANIZATION OF REPORT

Section 771(7)(B) of the Tariff Act of 1930 (the "Act") (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission–

> *shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and. . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.*

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

> *In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume,*

[1] A complete description of the imported product subject to these investigations is presented in *The Subject Product* section located in Part I of this report.

[2] *Federal Register* notices cited in the tabulation are presented in app. A.

either in absolute terms or relative to production or consumption in the United States is significant.

. . .

In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether . . . (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.

. . .

In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to

. . .

(I) actual and potential declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.

Information on the subject merchandise, alleged margins of dumping and subsidies, and domestic like product is presented in *Part I*. Information on conditions of competition and other relevant economic factors is presented in *Part II*. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. The volume of imports of the subject merchandise is presented in *Part IV* and pricing of domestic and imported products is presented in *Part V*. *Part VI* presents information on the financial experience of U.S. producers. Information obtained for use in the Commission's consideration of the question of threat of material injury is presented in *Part VII*.

U.S. MARKET SUMMARY

The U.S. market for bottom mount refrigerators totaled approximately $*** and *** units in 2010. Currently, five firms produce bottom mount refrigerators in the United States, (1) Whirlpool; (2) Sub-Zero, Inc., ("Sub-Zero); (3) General Electric Co. ("GE"); (4) Haier America Refrigerators Co., Ltd. ("Haier America"), and (5) Viking Range Corp. ("Viking"). These firms are believed to account for all U.S. production of bottom mount refrigerators in 2010. During the period of investigation, Whirlpool accounted for the vast majority of U.S. production of bottom mount refrigerators, and in 2010, accounted for *** percent of total reported U.S. production. At least four firms have reported importing bottom mount refrigerators from the subject countries since 2008. Two firms, LG Electronics USA, Inc. ("LG") and Samsung Electronics America, Inc. ("Samsung"), U.S. subsidiaries of foreign producers in Korea and Mexico, accounted for the vast majority of reported imports from Korea and Mexico. ***.

U.S. producers' U.S. shipments of bottom mount refrigerators totaled *** units valued at $*** in 2010, and accounted for *** percent of apparent U.S. consumption by quantity (*** percent by value). U.S. shipments of imports from Korea totaled *** units valued at $*** in 2010, and accounted for *** percent of apparent U.S. consumption by quantity (*** percent by value), while U.S. shipments of imports from Mexico totaled *** units valued at $***, and accounted for *** percent of apparent consumption by quantity (*** percent by value). U.S. shipments of imports from all other sources combined totaled *** units valued at $***, and accounted for *** percent of apparent consumption by quantity (*** percent by value).

Bottom mount refrigerators are a consumer product used for residential refrigeration and freezing of foodstuffs installed in kitchens throughout the United States. Bottom mount refrigerators are generally considered to be the high-end, premium category of the U.S. combination refrigerator-freezer market.

SUMMARY DATA AND DATA SOURCES

A summary of data collected in these investigations is presented in appendix C, table C-1. U.S. industry data are based on questionnaire responses of three U.S. producers that accounted for virtually all of U.S. production of bottom mount refrigerators during the period of investigation.[3] Data for U.S. imports from Korea, Mexico, and nonsubject countries are based on responses to the Commission's U.S. importer's questionnaire. Foreign industry data are based on responses to the Commission's U.S. foreign producer's questionnaires. Appendix C, table C-2 presents data submitted by U.S. producers and U.S. importers regarding their top mount refrigerator operations. Appendix C, table C-3 presents data submitted by U.S. producers and U.S. importers regarding their side by side refrigerator operations. Appendix C, table C-4 compiles data for all refrigerators models (top mount, side by side, and bottom mount). (See *Domestic Like Product Issues* later in Part I). Finally, Appendix C, table C-5 presents U.S. industry data with the U.S. industry data of *** removed.

PREVIOUS AND RELATED INVESTIGATIONS

There have been no previous antidumping or countervailing duty investigations on bottom mount refrigerators. In 2008, however, Whirlpool filed a complaint under section 337 of the Tariff Act of 1930 alleging that U.S. imports of certain refrigerators and components thereof infringed upon a number of Whirlpool patents.[4] Among the patent infringement claims alleged in the complaint, one claim pertained to bottom mount refrigerators. Whirlpool named LG Electronics, Inc., LG Electronics USA, Inc., and LG Electronics Monterrey Mexico, S.A. de C.V. as respondents. In 2010, the Commission affirmed the ALJ's findings and determined that U.S. imports did not infringe on Whirlpool's patents and the investigation was terminated. [5]

[3] U.S. industry data is compiled using the U.S. producer questionnaire responses of Whirlpool, GE, and Viking. Haier America did not submit usable trade, financial, or pricing data in its response. Sub-Zero did not submit a U.S. producer questionnaire.

[4] *In the Matter of Certain Refrigerators and Components Thereof; Notice of Investigation,* 73 FR 10285, February 26, 2008.

[5] *Certain Refrigerators and Components Thereof; Notice of the Commission's Final Determination of No Violation of Section 337, Extension of Target Date, Termination of the Investigation,* 75 FR 7520, February 19, 2010. In March 2010, a federal court jury found that LG did infringe upon a number of Whirlpool patents and awarded damages. Petition, p. 11 fn. 15.

NATURE AND EXTENT OF ALLEGED SALES AT LTFV

On April 26, 2011, Commerce published a notice in the *Federal Register* of the initiation of its antidumping investigation on bottom mount refrigerators from Korea and Mexico.[6] The alleged estimated weighted-average dumping margins (in percent *ad valorem*), as reported by Commerce are summarized in the tabulation below:

Country	Estimated dumping margin (*percent ad valorem*)
Korea	34.16 to 61.82
Mexico	23.10 to 183.18
Source: *Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea and Mexico: Initiation of Antidumping Duty Investigations;* 76 FR 23281, April 26, 2011.	

NATURE OF ALLEGED COUNTERVAILABLE SUBSIDIES

On April 26, 2011, Commerce published a notice in the *Federal Register* of the initiation of its countervailing duty investigation on bottom mount refrigerators from Korea. In its notice, Commerce listed the following programs alleged in the petition to have provided countervailable subsidies to producers of bottom mount refrigerators in Korea:[7]

1. Korean Export-Import Bank Subsidy Programs

2. Korea Development Bank and Industrial Bank of Korea Short-Term Discounted Loans for Export Receivables

3. Korea Trade Insurance Corporation–Export Insurance and Export Credit Guarantees

4. Production Facilities Subsidies: Gwangju Metropolitan City Programs

5. Production Facilities Subsidies: Changwon City Subsidy Programs

6. Gyeongsangnam-do Province and Korea Energy Management Corporation Energy Savings Subsidies

7. Government of Korea Facilities Investment Support: Article 26 of the Restriction of Special Taxation Act

8. Government of Korea Targeted Subsidies

[6] *Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea and Mexico: Initiation of Antidumping Duty Investigations;* 76 FR 23281, April 26, 2011.

[7] *Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea: Initiation of Countervailing Duty Investigations;* 76 FR 23298, April 26, 2011.

THE SUBJECT PRODUCT

Commerce's Scope

Commerce has defined the scope of these investigations as follows:

> The products covered by these investigations are all bottom mount combination refrigerator-freezers and certain assemblies thereof from Korea and Mexico. For purposes of the investigations, 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:
>
> > (1) The cabinet contains at least two interior storage compartments accessible through one or more separate external doors or drawers or a combination thereof;
> >
> > (2) The 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
> >
> > (3) There is at least one freezer or convertible compartment that is mounted below the 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 ("HTS"). Products subject to the 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 HTS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.

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

Tariff Treatment

Bottom mount refrigerators are provided for in Harmonized Tariff Schedule of the United States ("HTS") subheading 8418.10.00 and imported under HTS statistical reporting numbers 8418.10.0010, 8418.10.0020, 8418.10.0030, and 8418.10.0040. Products subject to the investigation may also be imported under HTS subheadings 8418.21.00, 8418.99.40, and 8418.99.80 (statistical reporting numbers 8418.21.0010, 8418.21.0020, 8418.21.0030, 8418.21.0090, and 8418.99.4000, 8418.99.8050, and 8418.99.8060). All of these HTS subheadings have general duty rates of free.[8]

Physical Characteristics and Uses

A refrigerator is a cooling appliance for the storage and preservation of perishable food and beverages. A refrigerator maintains a cold temperature above the freezing point of water. Combination refrigerator-freezers also contain a separate freezer compartment which maintains temperatures below freezing.[9]

Combination Refrigerator-Freezer Styles in the U.S. Market

Currently in the U.S. market, there are three primary styles of refrigerators. They include: (1) top mount combination refrigerator-freezers ("top mount refrigerators"); (2) side-by-side combination refrigerator-freezers ("side-by-side refrigerators"); and (3) bottom mount refrigerators. Some market participants also subdivide the bottom mount refrigerator market segment into three subcategories based on its configuration of doors. These subcategories include: (1) a two-door configuration ("two-door bottom mount refrigerator"), (2) a three-door or French door configuration ("french door bottom mount refrigerator"), and (3) multi-door or four-door French door configuration ("four door french door bottom mount refrigerator"). A general description of the various style types and configurations for these combination refrigerator-freezers follows.

Top Mount Refrigerators

This style of combination refrigerator-freezer has a freezer compartment on the top and refrigerator compartment on the bottom (see Figure 1). This is the oldest and most common refrigerator-freezer configuration. Model widths range from about 24 to 36 inches with capacities from 10 to 25 cubic feet. The top mount refrigerator style generally costs the least among the three general refrigerator styles.

[8] Harmonized Tariff Schedule of the United States (2011).
[9] Petition, p. 12.

Figure 1
Top mount style refrigerator

Source: Whirlpool

Side-by-Side Refrigerators

This style combination refrigerator-freezer has the refrigerator compartment and the freezer compartment positioned vertically next to each other (see Figure 2). Side-by-side refrigerators tend to be more expensive and are available in larger capacity models than top mount refrigerators. This particular style of refrigerator is available with product features such as water and ice dispensers which are generally not available on top mount refrigerators.

Figure 2
Side-by-side style refrigerator

Source: Whirlpool

Bottom Mount Refrigerators

This style of combination refrigerator-freezer positions the freezer compartment at the bottom of the unit below the refrigeration compartment which places the more-often used refrigerator compartment at eye level in combination with wider refrigeration and freezer storage space compared to a side-by-side refrigerator (see Figure 3).[10] Bottom mount refrigerators are available in a range of depths (counter depth versus standard depth), widths (30, 33, or 36 inch), and capacities.[11] Bottom mount refrigerators are produced in a variety of configurations, including a two-door configuration, a French door configuration, and a four-door French door configuration. A general description of these subcategories of bottom mount refrigerators follows.

Two-door Bottom Mount Refrigerator

The two door bottom mount refrigerator configuration has one door for the refrigerator compartment and one pull-out drawer, which accesses the freezer compartment, located under the refrigerator compartment. The sole door that accesses the refrigerator compartment opens similarly to a top mount refrigerator.

[10] Conference transcript, pp. 24 (Bitzer); Whirlpool petition, p. 14.
[11] Conference transcript, p. 101 (Herring).

French Door Bottom Mount Refrigerator

The french door bottom mount refrigerator configuration has dual doors that access the refrigerator compartment and one pull-out drawer, which accesses the freezer compartment, located under the refrigerator compartment. The dual refrigerators doors are hinged to open as “french doors” to access one refrigerator compartment.[12]

Four Door, French Door Bottom Mount Refrigerator

The four door, french door bottom mount refrigerator configuration has dual doors that access the refrigerator compartment and two pull-out drawers. The dual refrigerators doors are hinged to open as “french doors” to access one refrigerator compartment. In this configuration, the fourth “door” (the second freezer drawer) is typically used for refrigeration, freezing, soft-freezing, or is temperature adjustable to select any of those options.[13]

Figure 3
Bottom mount refrigerators: Two-door style, French door style, Four door, French door style

Source: Whirlpool

[12] As described in the staff report, this configuration would have three doors (two french doors and a freezer drawer). Respondent Samsung describes this configuration of bottom mount refrigerator as a “multi door” bottom mount to distinguish it from a two door bottom mount configuration. Samsung’s postconference brief, pp. 14-15.

[13] Samsung offered a 4-door bottom mount which contained a “convertible” compartment with adjustable temperature that could be used for refrigeration or soft freezing. Whirlpool reportedly included a similar compartment in a recent bottom mount model, but did not offer that configuration within the period of investigation. Petitioner’s postconference brief, Part II, Question 1.

Manufacturing Process

A bottom mount refrigerator consists of several distinct systems manufactured from a wide variety of materials. Some materials are purchased in bulk, others as cut, shaped and painted pieces, and others are purchased as component systems. All of these components and systems are brought together on as assembly line, and then are tested and packed for shipment.[14]

The petitioner describes five separate production modules or sub-processes it utilizes in the production of a bottom mount refrigerator. These are the production of the: (1) cabinet or outer shell; (2) control system; (3) refrigerator door; (4) literature and labels, and (5) packaging. The components for each module originate within five areas in petitioner's production plant, including: materials receiving, cabinet forming, fabrication support, plastics forming, and door foam. Different producers may originate their components and assemblies in different departments, but the technology and process are all similar.[15]

The materials receiving department receives all purchased raw materials, pre-stamped or pre-printed steel coils, blanks, electrical subassemblies, injection molded parts, mechanical kits such as drawer glides, printed literature and labels, and packaging materials. Raw materials include the plastics used to make refrigerator and door inner liners, the chemicals used to make insulating foam, and copper and steel tubing.[16]

The cooling system related components which include the compressor, evaporators, and condensers are designed and sized by engineers and purchased from specialty manufacturers. Compressor manufacturing is a highly specialized and high volume business. Most refrigerator manufacturers buy compressors from a few global suppliers. The interior and exterior feature components are designed by Whirlpool and the components are supplied by specialty suppliers.[17]

The cabinet forming department produces the exterior metal shell of the refrigerator. Using semi-automated equipment, raw metal blanks are formed from steel coils, stamped, and assembled. Some components are pre-fabricated in the fabrication support and plastics forming departments and delivered to the cabinet formers. The back panel and deck are assembled into the cabinet shell. Completed metal cabinets are delivered to the assembly lines.[18]

The fabrication support department processes raw materials such as coil sheet steel and copper or steel tubing. Sheet steel is blanked to the appropriate size, then stamped and formed using custom dies. The formed parts are cleaned, deburred, and painted as necessary. Such fabricated steel components go into the cabinet and door modules. Purchased coils of copper and steel tubing are cut to length, formed, and brazed into components of the cooling or ice water maker systems.[19]

The plastics forming department processes raw plastic granules or pellets principally into the plastic liners for the cabinet, freezer, and door modules. The plastic granules are melted and extruded in sheet form and cut to length. Cut to length sheets are delivered to thermo-forming equipment that uses molds designed by Whirlpool to obtain the required geometry. The liners are trimmed, and holes punched where required and delivered to the cabinet and door foam departments.[20]

The door foam departments first assemble the liner and steel exteriors along with ice and water dispensing components, wire harnesses, gaskets, and handle anchors. The pre-foam assembled doors are warmed and insulating foam is injected in the cavity between the liner and the door exterior, and allowed to cure. The finished doors are then delivered to the assembly line.

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[14] Petition, p. 16.
[15] Ibid.
[16] Ibid., p. 17.
[17] Ibid.
[18] Ibid.
[19] Ibid., pp. 17-18.
[20] Ibid., p. 18.

The manual assembly process consists of pre-foam cabinet assembly which includes exterior cabinet shell and plastic inner liner. Before foaming the cabinet, the cooling system, control system and other electrical components are attached to the cabinet or the liner on a moving conveyor. The insulating foam is then injected into the cavity between the cabinet liner and exterior by automated foaming equipment. Post-foam assembly includes fan motors, wiring, valves, and additional cooling system assembly. The compressor, condenser, and evaporators are connected by brazing; the sealed system is evacuated of all contaminants and charged with refrigerant and oil. The final manual assembly includes the installation of the interior and exterior features and the doors. One hundred percent inspection is performed on the cooling system, control system, and ice and water system. Fit and finish are visually inspected.

After inspection, the finished unit is transferred to the packaging area where literature and labels are applied and the unit is packaged. External protective packaging is applied manually before the unit is automatically shrink-wrapped. The complete unit is then shipped to a distribution center.[21]

Product Features

Bottom mount refrigerators are sold with a variety of product feature combinations. In its petition, Whirlpool lists a number of examples of product features,[22] five of which were discussed at length at the preliminary staff conference and in the postconference briefs. These product features included: (1) the Energy Star (or E-star) rating, (2) capacity, (3) twin cooling (or dual evaporators), (4) external ice and water dispensers, (5) LED lighting.[23]

Energy Star rating

Energy efficiency in refrigerators is indicated by an Energy Star rating which is based on the maximum energy usage delineated by the Department of Energy ("DOE"), according to the location of the freezer and thermodynamic properties of the configuration.[24] For bottom mount refrigerators, the Energy Star rating is available to those, "whose energy usage is 20 percent better than the maximum applicable energy usage level delineated by the DOE."[25] Prior to April 2008, the Energy Star standard was 15 percent. Petitioner reported that more than 95 percent of its bottom mount refrigerators sold during the period of investigation were Energy Star rated.[26] Samsung also noted that "virtually all multi-door models are Energy Star rated."[27]

Capacity

Capacity refers to the amount of storage space inside the bottom mount refrigerator. Both the petitioner and respondents discussed capacity as an important characteristic of bottom mount refrigerators. Respondent LG explained that capacity, "is important to the high-end consumer segment, for whom 'bigger is better.'"[28] Respondents LG and Samsung stated that in order to meet the market

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[21] Ibid, p. 19.

[22] Petition, p. 119.

[23] Conference transcript, p. 33 (Bitzer).

[24] DOE promulgates different energy efficiency standards for bottom mount, top mount, and side-by-side models. Petitioner's postconference brief, Part II, Question 3.

[25] Petitioner's postconference brief, Part II, Question 3.

[26] Petitioner's postconference brief, Part II, Question 2.

[27] Samsung's postconference brief, p. 31.

[28] LG's postconference brief, p.6.

demand for larger capacity refrigerators they developed “thin-wall” insulation technology. Thin-wall insulation technology allows a manufacturer to provide more usable interior refrigeration capacity without requiring the expansion of the exterior width of the refrigerator. For example, LG and Samsung have used a “thin wall” construction to allow for a larger interior capacity (28 and 29 cubic feet compared to their 26.5 cubic foot models) for the same 36 inch width refrigerator model. Maintaining the exterior width of the refrigerator is important because the outer width of a refrigerator is limited by the size of the kitchen space.[29]

[30].[31]

Twin Cooling or Dual Evaporators

The cooling system of a refrigerator consists of three major components: (1) the compressor, (2) the evaporators, and (3) the condensers. These products are generally purchased from speciality manufacturers. In a bottom mount refrigerator with a twin cooling system, the air for the refrigerator and freezer is cooled separately with two evaporators and two fan systems. Twin cooling was a feature offered in most of Samsung’s bottom mount refrigerators during the period of investigation. Petitioner stated that it did not offer this feature in any of its bottom mounts but achieved similar results using sensors.[32] ***[33]

External Ice and Water Dispenser

An external ice and water dispenser is a feature on a refrigerator that allows a user to access ice and water through the exterior of the refrigerator door. The ice maker first produces ice which is stored in a bin. A level on the exterior door activates a switch, which turns on a motor that rotates an auger. When the auger rotates, it pushes ice out of the bin, through a chute to the user. The water dispenser works much like the ice dispenser. A lever on the exterior of the refrigerator activates a switch which turns on an electric water valve at the back of the refrigerator. Water flows through the valve into a tube then flows into a container in the refrigerator to be chilled.

This is a feature offered by Whirlpool, Samsung, and LG on many of their bottom mount refrigerator models.[34] LG argues that its icemaker is superior because it takes up less interior space than other models.[35] External ice and water dispensers are not typically available on two-door bottom mount refrigerators, whereas they are widely available on French door models.[36]

LED Lighting

Light-emitting diode (“LED”) lighting emits less heat and is more energy efficient than traditional incandescent refrigerator lighting. Petitioner contends that subject imports employed LED lighting more frequently than Whirlpool bottom mount refrigerators during the period of investigation.[37] Petitioner also noted that LED lighting first appeared in refrigerators in Europe nearly a decade ago and

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[29] LG’s postconference brief, p.6; Conference transcript, p.105 (Herring); Respondent Samsung’s postconference brief, p. 32.

[30] Petitioner’s postconference brief, Part II, Question 1; Samsung postconference brief, p. 31.

[31] Petitioner’s postconference brief, Part II, Question 1.

[32] Ibid.

[33] Ibid.

[34] Samsung’s postconference brief, p. 35.

[35] LG’s postconference brief, p.31.

[36] Conference transcript, p. 102, (Herring).

[37] Petitioner’s postconference brief, Part II, Question 1.

that the "Koreans did not 'invent' this technology. There is no technical obstacle to Whirlpool's ability to use LED lighting in its products."[38] Samsung noted that Whirlpool, Samsung, and LG all offer LED lighting.[39]

DOMESTIC LIKE PRODUCT ISSUES

The petitioner contends that the Commission should find one domestic like product that is co-extensive with the scope of the investigations as identified by Commerce.[40] Petitioner argues that bottom mount refrigerators are distinct from other consumer combination refrigerator-freezers available in the market, such as top mount refrigerators and side-by-side refrigerators. In the preliminary phase of these investigations, respondents do not dispute the petitioner's domestic like product definition.[41] Nonetheless, the Commission collected data regarding the top mount and side by side refrigerator U.S. market segments.[42]

The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors including: (1) physical characteristics and uses; (2) common manufacturing facilities, production processes, and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and (6) price. U.S. producer and U.S. importer questionnaire recipients were asked to comment on these factors.

Top Mount Refrigerators vs. Bottom Mount Refrigerators

Physical Characteristics and Uses

Of the three responding U.S. producers, two reported that top mount refrigerators did not have the same physical characteristics as bottom mount refrigerators.[43] Petitioner argued that although the end uses of refrigerating or freezing food are the same, bottom mount and top mount refrigerators have different physical characteristics that make then distinctively different products. They stated that because the freezer compartment of a bottom mount is below the refrigerator compartment the following differences are evident between the products: (1) a bottom mount model is ergonomically superior to a top mount model because in a bottom mount model the more often used refrigerator compartment is entirely at eye level whereas with a top mount refrigerator a user must bend down to examine lower refrigerator shelves; and (2) a bottom mount model is thermodynamically superior to a top mount model because cold air descends thereby giving the bottom mount freezer compartment a more efficient cooling mechanism than the top mount model. *** reiterated petitioner's observations and added that top mount models do not generally have an ice dispenser feature.[44]

Of the four responding U.S. importers, three reported that top mount refrigerators did have the same physical characteristics as bottom mount refrigerators. Although citing that top mount and bottom mount models have different configurations and features, these market participants stressed the similarity of the general purpose of combination refrigerator-freezers regardless of model, namely, to refrigerate and

[38] Ibid.

[39] Samsung's postconference brief, p. 36.

[40] Petitioner's postconference brief, pp. 7-8.

[41] Samsung's postconference brief, pp. 1-2; Conference transcript, p. 142 (Cunningham). The respondents noted that they reserve the right to present arguments with regard to the definition of the domestic like product in any final phase investigations. Ibid.

[42] *See* Appendix C, tables C-2 and C-3.

[43] Responses to U.S. producer questionnaire, question II-11 of Whirlpool, GE, and Haier. ***. ***.

[44] Petitioners' postconference brief, pp. 7-8. U.S. producer questionnaire responses of Whirlpool and GE, question II-11.

freeze food.[45]

Common Manufacturing Facilities, Production Processes, and Production Employees

Of the three responding U.S. producers, two reported that top mount and bottom mount refrigerators did not share common manufacturing facilities, production processes, or production employees.[46] ***.[47]

Of the four responding U.S. importers, three reported that top mount and bottom mount refrigerators do share common manufacturing facilities, production processes, or production employees. ***.[48]

Interchangeability

Of the three responding U.S. producers, two of the three reported that top mount refrigerators were not interchangeable with bottom mount refrigerators.[49] ***.[50]

Of the four responding U.S. importers, two reported that top mount refrigerators are interchangeable with bottom mount refrigerators. ***.[51]

Customer and Producer Perceptions

Of the three responding U.S. producers, all three reported that top mount refrigerators were not perceived by customers as a similar product as bottom mount refrigerators. ***.[52] Of the four responding U.S. importers, three reported that top mount refrigerators were not perceived by customers as a similar product as bottom mount refrigerators, ***.[53]

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[45] Responses to U.S. importer questionnaire, question II-7 of LG, Samsung, GE, and Best Buy. ***.

[46] Responses to U.S. producer questionnaire, question II-11 of Whirlpool, GE, and Haier. ***.

[47] Petitioners' postconference brief, pp. 7-8. U.S. producer questionnaire responses of GE and Whirlpool, question II-11.

[48] Responses to U.S. importer questionnaire, question II-7 of LG, Samsung, GE, and Best Buy.

[49] Responses to U.S. producer questionnaire, question II-11 of Whirlpool, GE, and Haier. ***.

[50] Petitioners' postconference brief, pp. 7-8. U.S. producer questionnaire responses of GE and Whirlpool, question II-11.

[51] Responses to U.S. importer questionnaire, question II-7 of LG, Samsung, GE, and Best Buy.

[52] Responses to U.S. producer questionnaire, question II-11 of Whirlpool, GE, and Haier.

[53] Responses to U.S. importer questionnaire, question II-7 of LG, Samsung, GE, and Best Buy.

Channels of Distribution

All of the three responding U.S. producers and four responding U.S. importers reported that top mount refrigerators shared the same channels of distribution as bottom mount refrigerators. Petitioner and respondents stated that ***.[54]

Price

All of the three responding U.S. producers and four responding U.S. importers reported that bottom mount refrigerators are ***.[55] Average unit values of U.S. commercial shipments of top mount refrigerators were $*** in 2010 compared to $*** for U.S. commercial shipments of bottom mount refrigerators.

Side-by-Side Refrigerators vs. Bottom Mount Refrigerators

Physical Characteristics and Uses

Of the four responding U.S. producers, all four reported that side-by-side refrigerators did not have the same physical characteristics as bottom mount refrigerators.[56] Petitioners argue that although the end use of refrigerating or freezing food are the same, bottom mount and side-by-side refrigerators have different physical characteristics that make them distinctively different products. They stated that ***.[57]

Of the five responding U.S. importers, three reported that side-by-side refrigerators did have the same physical characteristics as bottom mount refrigerators. ***.[58]

Common Manufacturing Facilities, Production Processes, and Production Employees

Of the four responding U.S. producers, two reported that side-by-side and bottom mount refrigerators did not share common manufacturing facilities, production processes, or production employees.[59] ***.[60]

Of the five responding U.S. importers, four reported that side-by-side and bottom mount refrigerators do share common manufacturing facilities, production processes, or production employees. ***.[61]

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[54] Responses to U.S. producer questionnaire, question II-11 of Whirlpool, GE and Haier.

[55] Ibid.

[56] Responses to U.S. producer questionnaire, question II-13 of Whirlpool, GE, Viking, and Haier.

[57] Petitioner's postconference brief, pp. 7-8. U.S. producer questionnaire response of GE & Whirlpool, question II-13.

[58] Responses to U.S. importer questionnaire, question II-11 of LG, Samsung, GE, Fisher & Paykel, and Best Buy.

[59] Responses to U.S. producer questionnaire, question II-13 of Whirlpool, GE, Viking, and Haier. ***.

[60] Petitioners' postconference brief, pp. 7-8. U.S. producer questionnaire responses of GE and Whirlpool, question II-11.

[61] Responses to U.S. importer questionnaire, question II-11 of LG, Samsung, GE, Fisher & Paykel, and Best Buy.

Interchangeability

Of the four responding U.S. producers, three reported that side by side refrigerators were not interchangeable with bottom mount refrigerators.[62] ***.[63]

Of the five responding U.S. importers, three reported that side-by-side refrigerators are interchangeable with bottom mount refrigerators. ***.[64]

Customer and Producer Perceptions

Of the four responding U.S. producers, all four reported that side-by-side refrigerators were not perceived by customers as a similar product as bottom mount refrigerators. All U.S. producers reported that ***.[65]

Of the five responding U.S. importers, four reported that side-by-side refrigerators were not perceived by customers as a similar product as bottom mount refrigerators, ***.[66]

Channels of Distribution

All of the four responding U.S. producers and four responding U.S. importers reported that side-by-side refrigerators shared the same channels of distribution as bottom mount refrigerators. ***.[67]

Price

All of the four responding U.S. producers and four responding U.S. importers reported that bottom mount refrigerators are generally higher priced than side-by-side refrigerators.[68] Petitioner acknowledged, however, that there may be occasionally some overlap in pricing between low-end bottom mount models and high-end side-by-side models.[69] Average unit values of U.S. commercial shipments of side-by-side refrigerators were $*** in 2010 compared to $*** for U.S. commercial shipments of bottom mount refrigerators.

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[62] Responses to U.S. producer questionnaire, question II-13 of Whirlpool, GE, Viking, and Haier.

[63] Petitioners' postconference brief, pp. 7-8. U.S. producer questionnaire responses of GE and Whirlpool, question II-11.

[64] Responses to U.S. importer questionnaire, question II-11 of LG, Samsung, GE, Fisher & Paykel, and Best Buy.

[65] Responses to U.S. producer questionnaire, question II-13 of Whirlpool, GE, Viking, and Haier.

[66] Responses to U.S. importer questionnaire, question II-11 of LG, Samsung, GE, Fisher & Paykel, and Best Buy.

[67] Responses to U.S. producer questionnaire, question II-13 of Whirlpool, GE, Viking, and Haier.

[68] Responses to U.S. producer questionnaire, question II-13 of Whirlpool, GE, Viking, and Haier.

[69] Petitioners' postconference brief, pp. 7-8.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET [1]

U.S. MARKET SEGMENTS

Within the refrigerator market, bottom mount refrigerators generally represent the highest-price and most feature-laden segment, although there may be some price overlap between the highest-priced side-by-side refrigerators and the lowest-priced bottom mount refrigerators.[2] Most bottom mount refrigerators sold in the U.S. market are produced by U.S. producer Whirlpool, Korean and Mexican producers LG and Samsung, and Mexican producers Mabe and Electrolux. Producers and importers sell bottom mount refrigerators to a national market.[3]

Bottom mount refrigerators are available with an array of different features, including dual evaporators, LED lighting, LCD displays, and stainless steel exteriors. The petitioner described features as "not rocket science," meaning that most suppliers could supply most features, so that decisions over whether to include particular features are a cost, not a technological, decision.[4]

LG stated that it divided the bottom mount refrigerator market into two segments: two-door and multi-door (including with French doors). It described each segment as having different consumer appeal, with the French door segment more likely to have more and newer features and to be sold to a less price-sensitive consumer.[5] Similarly, Samsung stated that 94 percent of its bottom mount refrigerator sales were in the multi-door segment, and that the two-door segment was "stagnant."[6] Additionally, an economic consultant for respondents alleged that Whirlpool was not present in the market for bottom mount refrigerators with French doors and greater than 25.5 cubic feet capacity until 2009. He further alleged this part of the market accounted for 80 percent of the increase in subject import volume.[7]

Korean and Mexican producers alleged that their success in the U.S. market has been due to their development of the multi-door bottom mount refrigerator market, as well as their products' higher quality, finish, design, and technology.[8] Whirlpool responded that bottom mount refrigerators have been produced domestically since the late 1960s, and that the market expanded when Whirlpool launched a new range of bottom mount refrigerators in 2003. It described the market as growing from 2003 to 2006, and alleged that LG did not enter it until 2007. It added that *Consumer Reports* rates Whirlpool bottom mount refrigerators at least as highly as subject imports.[9]

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[1] *** submitted producers' and importers' questionnaires. For purposes of this chapter, and unless otherwise noted, ***.

[2] Conference transcript, p. 77 (Bitzer).

[3] ***.

[4] Conference transcript, pp. 34, 59-60 (Bitzer). Home Depot agreed with the characterization of features as "not rocket science." Conference transcript, p. 129 (Baird).

[5] Conference transcript, pp. 100-102 (Herring).

[6] Conference transcript, p. 117 (Politeski).

[7] Conference transcript, p. 135 (Klett).

[8] Conference transcript, p. 13 (Cunningham).

[9] Conference transcript, pp. 22, 26 (Bitzer), and p. 126 (Baird). Samsung entered the bottom mount refrigerator market in 2007. Conference transcript, p. 113 (Politeski).

CHANNELS OF DISTRIBUTION

The petitioner described bottom mount refrigerators as being sold mostly through retail channels, although there is also a "contract" channel for builders of new housing developments.[10] Table II-1 presents channels of distribution for U.S. producers as well as for U.S. importers of subject product from Korea and Mexico and nonsubject product from other countries. All suppliers ship the vast majority of their bottom mount refrigerators to distributors.

Distributors include large retailers such as Best Buy, Home Depot, Lowe's, and Sears. LG stated that for multi-door bottom mount refrigerators four retail chains (Best Buy, Home Depot, Lowe's, and Sears) account for 80 percent of U.S. sales.[11] Home Depot added that two of the four large retailers (including Home Depot) have "fair floors" in which the salespeople have not seen the retailers' margins and receive no incentive for selling particular products due to differences in profit margins to the retailer.[12]

Table II-1
Bottom mount refrigerators: U.S. producers' and U.S. importers' U.S. shipments of subject product, by channels of distribution, 2008-10

* * * * * * *

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, U.S. bottom mount refrigerators producers have the ability to respond to changes in demand with moderate-to-large changes in the quantity of shipments of U.S.-produced bottom mount refrigerators to the U.S. market. Capacity utilization remains low and there are substantial exports and some inventories. However, the ability of U.S. producers to increase shipments can also be affected by the degree to which production alternatives can be easily switched into bottom mount refrigerator production.

Industry capacity

U.S. capacity utilization fell in 2009 from 2008 levels, before rebounding somewhat in 2010, but never exceeding its level of *** percent in ***. U.S. capacity was relatively stable over 2008 to 2010, varying a maximum of *** percent between 2009 and 2010. However, GE has announced plans to open a Kentucky manufacturing facility for French door refrigerators, with product potentially available in May 2012.[13]

Among U.S. producers, *** described changes in the product range or marketing of bottom mount refrigerators since January 1, 2008 as consisting of numerous new products and features including

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[10] Whirlpool described this market as difficult to obtain exact information on, but estimated that it was less than 15 percent of the total bottom mount refrigerator market. Conference transcript, pp. 30, 58 (Bitzer).

[11] LG's postconference brief, p. 10.

[12] Conference transcript, p. 123 (Baird). Home Depot did not name the four large retailers that it discussed.

[13] Conference transcript, p. 128 (Baird).

higher capacity models, models with greater energy efficiency, four-door models, improved interface (e.g., LCD), better lighting (LED), in door ice (IDI), and dual evaporators. It added that most of the innovations in the refrigeration industry have been in the bottom mount segment. However, *** stated that there had been no such changes, and noted that ***.

*** stated that they had not experienced any difficulty in supplying customers of bottom mount refrigerators since January 1, 2008.

Alternative markets

Exports comprised a growing share of U.S. producers' shipments of bottom mount refrigerators, reaching a peak level of *** percent in 2010.

Inventory levels

U.S. producers' inventories fell in 2009 from 2008 levels, before rebounding in 2010 to account for *** percent of production in that year.

Production alternatives

Among U.S. producers, ***.

Subject Imports

*** had imported from both Korea and Mexico since January 1, 2008. Analysis of their answers to questions that could apply to their supply from both Korea and Mexico, as well as from nonsubject countries, are presented here; analysis of their Korea- and Mexico-specific answers are presented further below.

*** importers indicated that there had been product mix or marketing changes since January 1, 2008. *** stated that 80 percent of sales of refrigerators that retail at over $1,500 are now bottom mount refrigerators, and added that marketing and promotions for bottom mount refrigerators had increased. *** cited increased sales because of increased consumer preference for bottom mount refrigerators and models with more features (including larger capacity). *** alleged that it has led the bottom mount refrigerator industry in terms of innovations, citing examples such as its introduction of ***.

When asked if they had experienced any difficulty in supplying customers of bottom mount refrigerators, *** stated that they had not. *** stated that demand spikes and raw material shortages can cause supply problems, but that these issues are usually resolved within one month. *** stated that it had ***.

Korea

Based on available information, Korean producers have the ability to respond to changes in demand with moderate changes in the quantity of shipments of bottom mount refrigerators to the U.S. market. Korean producers' ability to respond to demand changes depends in part on whether Korean producers can again increase capacity, as they did from 2008 to 2010, and whether they would switch to or from other production alternatives. Korean capacity utilization is high and inventories are very low, but there are substantial alternative export markets.

Industry capacity

Korean capacity utilization was approximately *** percent in 2008 and 2009 before rising to almost *** percent in 2010. Overall Korean capacity rose *** percent from 2008 levels to 2010 levels. *** stated that it would ***.

Korean producers reported no major changes in operations other than ***.

Alternative markets

Over 2008-10, Korean home market shipments accounted for between *** and *** percent of total Korean producers' shipments of bottom mount refrigerators, while shipments to the U.S. market ranged from *** to *** percent. Over the same period, Korean shipments to third country markets were always more than shipments to U.S. markets, but are forecast to fall to less than shipments to the U.S. market in 2011.

Production alternatives

Korean producers reported that they ***, but *** added that ***

Inventory levels

Korean producer inventories represent a small share of Korean production, never exceeding *** percent over 2008 to 2010.

Mexico

Based on available information, Mexican producers have the ability to respond to changes in demand with moderate-to-low changes in the quantity of shipments of bottom mount refrigerators to the U.S. market. As with Korean producers, Mexican producers' ability to respond to demand changes depends in part on whether Korean producers can again increase capacity, as they did from 2008 to 2010, and whether they would switch to or from other production alternatives. Mexican capacity utilization is high, inventories are low, and most shipments go to the United States.

Industry capacity

Mexican capacity utilization was approximately *** percent in 2008 and 2009 before rising to almost *** percent in 2010. Overall Mexican capacity rose by *** percent from 2008 levels to 2010 levels.

Among Mexican producers, ***. ***. Other Mexican producers ***.

Alternative markets

Mexican exports to the United States accounted for over *** of total Mexican shipments in 2009 and 2010. Shipments to Mexico never accounted for more than *** percent of total shipments.

Production alternatives

Mexican producers reported that they ***.[14]

Inventory levels

Mexican producer inventories were a small part of total shipments over 2008 to 2010, never exceeding *** percent.

Nonsubject Imports

Nonsubject imports accounted for a small share of the U.S. market, falling to *** percent of U.S. consumption in 2010.

U.S. Demand

Based on the available information, it is likely that changes in the price level of bottom mount refrigerators will result in a moderate change in the quantity of bottom mount refrigerators demanded. The degree of responsiveness of demand depends on how much of the market for bottom mount refrigerators consists of less-price-sensitive consumers that buy bottom mount refrigerators for ergonomic, style, or feature reasons and will not switch quickly into other refrigeration options based on price.

End Uses

Producers and importers generally described the end uses of bottom mount refrigerators as residential food and beverage refrigeration; however, *** did note that there were also some commercial uses.

Substitute Products

Producers and importers generally noted that other refrigerators could be substitutes for bottom mount refrigerators, but that such substitution had so far been limited because non-price factors often influence purchasing decisions among refrigerator types.

Among producers, *** described side-by-side refrigerators as having "medium/high" substitutability with bottom mount refrigerators, while top mount refrigerators and all refrigerators had "medium" substitutability with bottom mount refrigerators, and freezers had "lower" substitutability with bottom mount refrigerators. It added that none of the potential substitutes had had price changes that had affected the prices of bottom mount refrigerators. *** also listed the same products as substitutes (adding refrigerators that are not based on compressor technology), and similarly described purchasers as making decisions about their preferred refrigerator type without sensitivity to the prices of potential substitutes.[15]

Among importers, *** stated that there were no substitutes for bottom mount refrigerators. *** listed side-by-side and top mount refrigerators as substitutes for bottom mount refrigerators, but added that changes in the prices of those products had not affected the prices of bottom mount refrigerators. In addition, *** described top mount refrigerators as appealing most to price-sensitive consumers. It stated that although top mount refrigerators may compete with two door bottom mount refrigerators, the top

[14] ***

[15] ***.

mount refrigerator will generally be less expensive. It further described the side-by-side refrigerator as more expensive than top mounts and two-door bottom mounts, but less expensive than the multi-door bottom mount refrigerator. It added that the multi-door bottom mount refrigerator is generally the highest-priced refrigerator and usually offers the "latest features and most innovative styles." As such, it has appealed to some of the same types of consumers that used to buy side-by-side refrigerators.

Demand Characteristics

Demand for bottom mount refrigerators is driven in part by demand from less-price-sensitive consumers that value features and style. Demand is also driven by the increasing prevalence and duration of promotional periods, such as the increasingly important "Black Friday" sales.

At the conference, Whirlpool described consumers as looking at bottom mount refrigerators "very differently" than other refrigerators, in part because of the appeal of the eye-level refrigerator compartment.[16] LG also described the convenience of bottom mount refrigerators as one key to their popularity, but added that style and design also play a key role in consumer decisions concerning bottom mount refrigerators. It stated that as refrigerators play a larger role as the visual centerpiece of a kitchen, consumers of bottom mount refrigerators are placing more importance on stylistic qualities such as stylish handles, contoured doors, and hidden hinges. Additionally, it described thin walls as a feature that consumers found important due to the space constraints of fitting a bottom mount refrigerator in a kitchen.[17] Similarly, Samsung described itself as the "recognized leader" of innovative bottom mount refrigerator products, and distinguished itself from Whirlpool, which it described as not having updated its model from 2003 to 2007, and instead competing primarily on price.[18] Whirlpool disputed these allegations in its postconference brief, alleging that Korean producers did not invent some of the features that they said that they had.[19]

Home Depot also described consumer demand for bottom mount refrigerators as being driven by "cosmetics," i.e., how the product looks and feels to consumers. It described knobs that might cost only cents making a difference of hundreds of dollars in terms of what consumers are willing to pay for a product.[20]

Additionally, LG described refrigerator demand as falling into two categories: replacement and upgrade demand. Replacement demand occurs when a consumer's refrigerator breaks, and the consumer desires a new refrigerator quickly. LG described the upgrade market (about 40-45 percent of the total refrigerator market) as the target of a larger share of promotional activity than the replacement market.[21]

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[16] Conference transcript, pp. 24, 26 (Bitzer).

[17] Conference transcript, pp. 103-106, 110 (Herring). Samsung also described thin-walls, and in particular thin wall insulation that it introduced, as an important characteristic of its bottom mount refrigerators. Conference transcript, p. 113 (Politeski).

[18] Conference transcript, p. 115 (Politeski).

[19] Petitioner's postconference brief, answers to ITC question 1.

[20] Conference transcript, pp. 128-130 (Baird).

[21] Conference transcript, pp. 106-108 (Herring).

Business Cycles

Two producers and five importers indicated that the bottom mount refrigerator industry is subject to distinctive business cycles or conditions of competition, with firms noting seasonal demand as well as longer-term trends. *** cited the slowing of the wider economy and home construction as well as a consumer shift to lower priced products as reducing its shipments. *** described sales in the second and third quarters as typically higher than sales in the first and fourth quarters. It added that the housing market and overall economy also affect demand. *** also noted increased demand in summer months (with *** citing the season as the most likely time for refrigerators to break), and *** added that frequent promotions (notably Black Friday) "changed demand cycles."[22] *** described bottom mount refrigerator demand as being affected by overall business cycle and economic conditions, by housing market performance, by changing design tastes and lifestyle trends, and by government stimulus. *** indicated that product innovation had become crucial for demand, and had driven demand for bottom mount refrigerators higher even as overall refrigerator demand had fallen.

Producers and importers were also asked if there had been any changes in conditions of competition since January 1, 2008. *** producers[23] answered that there had been, with *** adding that promotional periods were playing an increasingly important role. As examples of promotional periods, *** cited President's Day, Memorial Day, Labor Day, and Black Friday, with Black Friday being the event where the deepest promotional discounts were offered.[24] *** agreed that there had been changes, while *** stated that there had not been. *** described holidays such as Memorial Day, Labor Day, July 4th, Presidents' Day, Black Friday, and Columbus Day as more important for increasingly competitive pricing promotions.[25] *** described product innovation cycles as becoming shorter and more important, alleging that producers that did not continue to innovate risked losing their competitiveness. *** cited increased consumer demand for highly designed products (due to increasingly open plan kitchens), and added that the 2010 "Cash for Appliances" program (described below) pushed sales that would have come in the second half of 2010 into the first half of 2010.

Government Incentive Programs

The Manufacturers' Energy Efficient Appliance Credit provides Federal tax credits for manufacturers of refrigerators and other appliances, generally based on whether the appliance is a certain percent more energy efficient than minimum standards. These credits have been extended several times since their inception in 2005. Producers and importers were asked if they received the Manufacturers' Energy Efficient Appliance Credit for their sales of bottom mount refrigerators. *** stated that they did not, although ***.[26]

Also, as part of the 2009 American Recovery and Reinvestment Act, the U.S. Department of Energy (DOE) made $300 million available to states and territories to promote the purchase of Energy

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[22] *** answered "seasonality" with no further explanation.

[23] ***.

[24] Additionally, Whirlpool described LG as lowering prices substantially during the 2010 Black Friday promotional period. Conference transcript, pp. 35-36 (Bitzer) and 42 (Levy). LG stated that Whirlpool lowered its prices more than LG during Black Friday 2010. Conference transcript, p. 111 (Herring).

[25] Whirlpool described Black Friday as having become a three week event that can account for large percentages of the annual volumes of particular bottom mount refrigerator products. LG similarly described Black Friday as a time when consumers are especially open to major appliance purchases. Conference transcript, pp. 98 (Bitzer) and 108-109 (Herring).

[26] ***. ***.

Star qualified appliances.[27] This program has been more widely known as "Cash for Appliances." Respondents alleged that while "Cash for Appliances" boosted demand for bottom mount refrigerators in the first half of 2010, those sales were borrowed from the second half of the year, in which demand fell.[28]

Customers

Domestic producers and importers were asked to name their top 10 customers in 2010. Selected customers and their suppliers are summarized in table II-2.

Table II-2
Bottom mount refrigerators: Selected customers of producers and importers of bottom mount refrigerators.

* * * * * * *

Demand Trends

The petitioner described the U.S. market for bottom mount refrigerators as not following larger trends in housing or the wider economy, citing the bottom mount refrigerator market's continued growth even during a steep housing and macroeconomic downturn.[29] Respondents stated that the recession has had an effect on bottom mount refrigerator sales, which would likely be even higher but for the recession.[30]

Among producers, *** reported that U.S. demand for bottom mount refrigerators had increased since January 1, 2008, citing a 30-percent increase in the bottom mount refrigerator industry since then. It attributed the growth to consumer preference for the ergonomic benefits and full width of the bottom mount refrigerator, and noted that this growth occurred in spite of weakness in the general U.S. economy and the housing market in particular. *** reported a decrease in U.S. demand over the same period, citing the economy, new home construction, and a new consumer preference for lower-priced products.

Five importers reported increased U.S. demand since January 1, 2008. *** described U.S. consumption of bottom mount refrigerators as increasing by 30 percent from 2009 to 2010, even as the wider refrigerator market shrank. It attributed the growth to the larger capacities and newer features of bottom mount refrigerators produced by LG and Samsung, and alleged that Whirlpool was not heavily present in this market until 2009. *** stated that retailers had added more showroom space for bottom mount refrigerators due to consumer preferences. *** also noted an increasing consumer preference for bottom mount refrigerators. *** added that consumer preference has been driven by the introduction of large capacity models with French doors and ice-and-water dispensers, models that have been marketed at lower price points more characteristic of models with lower capacity.

Producers and importers were also asked to describe demand trends in non-U.S. markets. *** stated that demand in the rest of the world had fluctuated, and that demand differed from country to country based on regional economic cycles and housing markets. *** described no change in the rest of the world, and stated that U.S. consumers' enthusiasm for bottom mount refrigerators was not yet shared

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[27] See http://www1.eere.energy.gov/recovery/appliance_rebate_program.html.

[28] Conference transcript, p. 144 (Cunningham).

[29] Conference transcript, p. 27 (Bitzer). New housing starts remain at near-historic lows. The April 2011 Blue Chip consensus forecast was for new housing starts to rise to 630,000 in 2011. This level would be higher than in 2009 and 2010, but much lower than at any time since data collection began (1959). By comparison, new housing starts were 2.1 million in 2005. See http://www.census.gov/const/startsan.pdf.

[30] Conference transcript,. p. 179 (Cunningham and Klett).

by consumers in other countries. However, *** described demand in the rest of the world as having gradually increased, particularly in ***.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported bottom mount refrigerators depends upon such factors as price, quality (e.g., grade standards, reliability of supply, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). Based on available data, staff believes that the degree of substitution between U.S. and imported bottom mount refrigerators depends on the importance of features and style to consumers, and how different these characteristics are between domestic and imported product.

At the conference, the petitioner alleged that domestic and imported bottom mount refrigerators directly compete with one another, and that increased sales of imported product necessarily came out of domestic market share.[31] However, respondents alleged that subject imports have increased their sales in the U.S. market due to feature and stylistic advantages (including advantages developed by Korean producers) that they allegedly have over Whirlpool's product.[32]

Lead Times

***.

Comparisons of Domestic Products and Imports

Producers and importers were asked to assess the degree of interchangeability between bottom mount refrigerators from the United States and those from subject and nonsubject countries. Their responses are summarized in table II-3 and the following page.

Table II-3
Bottom mount refrigerators: Perceived degree of interchangeability of product produced in the United States and in other countries[1]

*   *   *   *   *   *   *

In explaining why they answered "sometimes," among U.S. producers, *** described height and weight differences as being important for some consumers. Among importers, *** stated that interchangeability could be limited by voltage, regulatory requirements, plugs, and the language used in use and care manuals. *** stated that bottom mount refrigerators of the same external dimensions are functionally interchangeable. However, it added that refrigerators manufactured for non-U.S. markets are not interchangeable with those for the U.S. market due to differences in size, display, language, electric current, coolant, energy efficiency, design, and decoration.

Producers and importers were also asked to assess the importance of factors other than price in competition between bottom mount refrigerators from the United States and product from subject and nonsubject countries. Their responses are summarized in table II-4 and on the following page.

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[31] Conference transcript, p. 30 (Bitzer).

[32] Conference transcript, pp. 111 (Herring) and 113-114 (Politeski).

Table II-4
Bottom mount refrigerators: Differences other than price between products from different sources[1]

*   *   *   *   *   *   *

In further comments,, *** stated that consumer purchasing decisions reflect consumers' perceived value at that price point, but that price always plays a role in consumers' decisions. *** described quality, availability, transportation network, product range, and technical support as potentially affecting price. *** stated that its product had been ***.

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

Information presented in this section of the report is based on (except as noted) the questionnaire responses of four U.S. producers which are believed to account for virtually all U.S. production of bottom mount refrigerators in 2010.

U.S. PRODUCERS

The Commission sent U.S. producers' questionnaires to three firms identified in the petition as U.S. producers of bottom mount refrigerators. The following four firms submitted a response: (1) General Electric Co. ("GE"); (2) Haier America Refrigerators Co., Ltd ("Haier"); (3) Viking Range Corp. ("Viking"); and (4) Whirlpool.[1] Petitioner estimates that Whirlpool accounted for more than *** percent of total U.S. production of bottom mount refrigerators during the period of investigation. GE reported that ***. Haier reported that ***. Viking reported that ***. Table III-1 presents the list of reporting U.S. producers with each company's U.S. production location, share of reported U.S. production in 2010, and position on the petition.

Table III-1
Bottom mount refrigerators: U.S. producers, U.S. production locations, shares of reported U.S. production in 2010, and positions on the petition

Firm	Production location(s)	Share of reported production (*percent*)	Position on the petition	
			Korea	Mexico
GE[1]	Selmer, TN	***	***	***
Haier[2]	Camden, SC	(2)	***	***
Sub-Zero	(3)	(3)	(3)	(3)
Viking	Greenwood, MS	***	***	***
Whirlpool[4]	Amana, IA Fort Smith, AR Evansville, IN LaVergne, TN	***	Petitioner	Petitioner

[1] ***.
[2] ***.
[3] ***.
[4] ***.

Source: Compiled from data submitted in response to Commission questionnaires.

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[1] The petition identified the following three U.S. producers of bottom mount refrigerators: (1) Whirlpool, (2) Sub-Zero, and (3) Viking Range. The Commission received U.S. producer questionnaires from Whirlpool and Viking, but did not receive a response from Sub-Zero. Although not identified as U.S. producers of bottom mount refrigerators in the petition, two additional U.S. firms reported that they produced bottom mount refrigerators in the United States. These firms are: (1) General Electric Co. and (2) Haier. Haier did not submit usable trade, financial, or pricing data.

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data on U.S. producers' capacity, production, and capacity utilization are presented in table III-2. Total U.S. capacity increased from 2008 to 2010 by *** percent. U.S. capacity volume accounted for *** percent of apparent U.S. consumption of bottom mount refrigerators in 2010. Total U.S. production of bottom mount refrigerators increased by *** percent from 2008 to 2010. Annual capacity utilization ranged from *** percent in 2009 to *** percent in 2010.

Table III-2
Bottom mount refrigerators: U.S. producers' capacity, production, and capacity utilization, 2008-2010

* * * * * * *

*** of the four U.S. producers, ***, reported changes in capacity due to acquisitions, relocations, production curtailments, and/or plant closures. The tabulation below lists these events that occurred during the period of investigation.

* * * * * * *

In 2010, Whirlpool closed its Evansville, IN manufacturing facility which produced top mount refrigerators reportedly because of cost inefficiencies. It transferred production of these products to its manufacturing facilities in Mexico.[2]

One U.S. producer, GE, has announced plans to increase its capacity and production of bottom mount refrigerators in the United States. On October 18, 2010, GE issued a press release announcing its intention to invest $194 million and create 300 jobs at its Louisville, KY facility and begin the production of bottom mount refrigerators by 2014.[3]

*** of the four U.S. producers, ***, reported producing other products using the same manufacturing equipment and/or production employees that were used to produce bottom mount refrigerators. ***. Table III-3 shows total U.S. capacity to produce these products as well as the total U.S. production of bottom mount refrigerators and other refrigeration products that they produce in the United States.

Table III-3
Bottom mount refrigerators and other refrigerator model types: U.S. producers' total U.S. production and U.S. capacity, by firms and products, 2010

* * * * * * *

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[2] *See* Home Depot's postconference brief, exh. 6. *See also "In Indiana, Centerpiece of a City Closes Shop,"* New York Times, June 19, 2010.

[3] Home Depot's postconference brief, p. 10 & exh. 7; Samsung's postconference brief, p. 49.

U.S. PRODUCERS' U.S. SHIPMENTS AND EXPORT SHIPMENTS

As detailed in table III-4, the volume of U.S. producers' U.S. shipments of bottom mount refrigerators decreased by *** percent from 2008 to 2010. The value of U.S. shipments also decreased by *** percent from 2008 to 2010. *** reported *** internal consumption. *** reported export shipments. The majority of reported export shipments were to *** with some shipments also reported to ***.

Table III-4
Bottom mount refrigerators: U.S. producers' shipments, by types, 2008-2010

* * * * * * *

U.S. PRODUCERS' IMPORTS AND PURCHASES OF IMPORTS

***, reported U.S. imports or purchases of U.S. imports from Korea and/or Mexico during the period of investigation. ***. ***.[4] Table III-5 presents *** U.S. imports and purchases of U.S. imports from Korea and Mexico during the period of investigation, its U.S. production, and the ratio of their U.S. imports or purchases of U.S. imports to their U.S. production.

Table III-5
Bottom mount refrigerators: U.S. producers' subject imports and purchases of subject imports, 2008-2010

* * * * * * *

U.S. PRODUCERS' INVENTORIES

Data on end-of-period inventories of bottom mount refrigerators for the period of investigation are presented in table III-6.

Table III-6
Bottom mount refrigerators: U.S. producers' end-of-period inventories, 2008-2010

* * * * * * *

[4] ***.

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Data provided by U.S. producers on the number of production and related workers ("PRWs") engaged in the production of bottom mount refrigerators, the total hours worked by such workers, wages paid to such PRWs, productivity, and unit labor costs during the period of investigation are presented in table III-7.

Table III-7
Bottom mount refrigerators: Average number of production and related workers producing bottom mount refrigerators, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 2008-2010

* * * * * * *

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

The Commission sent importer questionnaires to 19 firms, including those firms listed in the petition as likely to be U.S. importers of bottom mount refrigerators, firms listed in proprietary U.S. Customs data as U.S. importers of a refrigeration products under HTS subheadings 8418.10 and 8418.21 (a broader category than the scope of these investigations), as well as to all U.S. producers.[1] U.S. importer questionnaire responses were received from eleven firms, five of which reported U.S. imports of bottom mount refrigerators and accounted for the vast majority of U.S. imports from Korea and Mexico.[2]

Table IV-1 lists all responding U.S. importers of bottom mount refrigerators, their U.S. locations, and their quantities of imports, by source, in 2010. Table IV-2 lists all responding U.S. importers of top mount refrigerators, their U.S. locations, and their quantities of imports, by source, in 2010. Table IV-3 lists all responding U.S. importers of side by side refrigerators, their U.S. locations, and their quantities of imports, by source, in 2010.[3]

Table IV-1
Bottom mount refrigerators: Reported U.S. imports, by importers and by sources of imports, 2010

Importer	U.S. location	Quantity *(actual units)*			
		Korea	Mexico	Nonsubject countries	Total
Best Buy	Richfield, MN	***[1]	***	***	***
Fisher & Paykel[2]	Huntington Beach, CA	***	***	***	***
GE	Louisville, KY	***	***	***	***
LG	Englewood Cliffs, NJ	***	***	***	***
Samsung	Ridgefield Park, NJ	***	***	***	***
Total		***	***	***	***

[1] ***.
[2] ***.

Source: Compiled from data submitted in response to Commission questionnaires.

[1] The Commission's questionnaire mailing list consisted of 19 firms. All of these firms received U.S. producer's and U.S. importer's questionnaires. These 19 firms included: ***.

[2] ***. GE has announced plans to invest $194 million and begin producing free-standing bottom mount refrigerators by 2014 in Louiseville, KY.

The five firms that reported U.S. imports of bottom mount refrigerators are listed in table IV-1. The Commission also received U.S. importer's questionnaire responses from firms that reported that they did not import bottom mount refrigerators. These firms include: ***. *** reported that they did not import bottom mount refrigerators, but rather purchased U.S. imports of the subject product. These firms include: ***. ***. ***.

[3] Reported U.S. imports of top mount and side by side refrigerators are used in Appendix C, table C-2 (top mount refrigerators), table C-3 (side by side refrigerators), and C-4 (all refrigerator models) to accurately account for U.S. apparent consumption and market shares of those models.

Table IV-2
Top mount refrigerators: Reported U.S. imports, by importers and by sources of imports, 2010

*　　*　　*　　*　　*　　*　　*

Table IV-3
Side-by-side refrigerators: Reported U.S. imports, by importers and by sources of imports, 2010

*　　*　　*　　*　　*　　*　　*

U.S. IMPORTS

Table IV-4 presents data for U.S. imports of bottom mount refrigerators from Korea, Mexico, and nonsubject countries. The data below are compiled using responses to the Commission's U.S. importer questionnaire. As shown, U.S. imports from Korea increased by *** percent from 2008 to 2010. The volume of U.S. imports from Mexico increased by *** percent from 2008 to 2010.[4] The volume of U.S. imports from nonsubject countries decreased by *** percent from 2008 to 2010. The sources of reported U.S. imports from nonsubject countries were: ***.[5]

Table IV-4
Bottom mount refrigerators: U.S. imports, by sources, 2008-2010

*　　*　　*　　*　　*　　*　　*

CUMULATION CONSIDERATIONS

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographical market, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Issues concerning fungibility and channels of distribution are addressed in *Part II* of this report. With regard to geographical markets and presence in the market, the petitioners argue that imported bottom mount refrigerators from Korea and Mexico compete without regard to geographical location in the United States and that these imports have been simultaneously present in the

[4] Respondents argue that a large percentage of the growth of subject imports during the period of investigation is attributable to the fact that demand for larger-capacity, multi-door, French door bottom mount models had increased and Whirlpool did not enter that market segment before 2009, which was subsequent to respondents entry into the segment. LG reported that the growth in the larger-capacity, multi-door bottom mount segment, which respondents allege to have developed, accounted for 70 percent of the total growth in the bottom mount refrigerators segment during the period of investigation. Samsung's postconference brief., pp. 13-14; LG's postconference brief, pp. 35-36. Petitioner stated that ***. Petitioner's postconference brief, p. 23 & Part II, p. 3; Home Depot's postconference brief, p. 3.

Respondents also contend that ***. LG's postconference brief, p. 36; Samsung's postconference brief, p. 15. Petitioner contends that ***. Petitioner's postconference brief, p. 26.

[5] Petitioner and respondents appear to agree that "Whirlpool and subject imports are the only sources of large volume supply of bottom mount refrigerators in the United States market." Petition, p. 120; Samsung's postconference brief, p. 5.

U.S. market during the period of investigation.[6] Official Commerce statistics show that U.S. imports from the Korea and Mexico did enter the United States through geographically dispersed U.S. ports of entry and monthly throughout the entire period of investigation.[7] Both U.S. producers and U.S. importers reported distributing bottom mount refrigerators geographically throughout the United States.[8] During the preliminary phase of these investigations, respondents did not raise any issues with regard to cumulation of subject imports.[9]

NEGLIGIBILITY

The Tariff Act of 1930 provides for the termination of an investigation if imports of the subject product from a country are less than 3 percent of total imports, or, if there is more than one such country, their combined share is less than or equal to 7 percent of total imports, during the most recent 12 months for which data are available preceding the filing of the petition.[10] The shares (in *percent*) of the total quantity of U.S. imports from Korea and Mexico for the period of January 2010 through December 2010 using U.S. import data compiled from the Commission's questionnaire responses were *** percent and *** percent, for Korea and Mexico, respectively, and *** percent cumulatively, well above the 3 and 7 percent negligibility thresholds.[11]

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Data on apparent U.S. consumption of bottom mount refrigerators are presented in table IV-5. From 2008 to 2010, the quantity of apparent U.S. consumption of bottom mount refrigerators increased by *** percent. From 2008 to 2010, the value of apparent U.S. consumption increased by *** percent. In 2010, U.S. production accounted for *** percent of U.S. apparent consumption of bottom mount refrigerators.

Data on U.S. market shares for bottom mount refrigerators are presented in table IV-6. U.S. producers lost *** percentage points of U.S. market share from 2008 to 2010 based on quantity and *** percentage points based on value. U.S. imports from Korea gained *** percentage points of U.S. market share from 2008 to 2010 based on quantity and *** percentage points based on value. U.S. imports from Mexico gained *** percentage points of U.S. market share from 2008 to 2010 based on quantity and *** percentage points based on value. U.S. imports from nonsubject countries lost *** percentage points of U.S. market share from 2008 to 2010 based on quantity and *** percentage points based on value.

---

[6] Petition, p. 16; petitioner's postconference brief, p. 9.

[7] Official Commerce statistics for HTS 8418.10.00 (2011).

[8] Responses to U.S. producer's questionnaires, question IV-11; responses to U.S. importer's questionnaires, question III-11.

[9] Samsung's postconference brief, p. 2; Conference transcript, p. 142 (Cunningham).

[10] 19 U.S.C. § 1677(24)(A)(ii).

[11] *See* Table IV-4.

Table IV-5
Bottom mount refrigerators: U.S. shipments of domestic product, U.S. shipments of imports by sources, and apparent U.S. consumption, 2008-2010

*   *   *   *   *   *   *

Table IV-6
Bottom mount refrigerators: Apparent U.S. consumption and market shares, 2008-2010

*   *   *   *   *   *   *

RATIO OF IMPORTS TO U.S. PRODUCTION

Data on the ratio of imports to U.S. production of bottom mount refrigerators are presented in table IV-7.

Table IV-7
Bottom mount refrigerators: U.S. production, U.S. imports, and ratios of imports to production, 2008-2010

*   *   *   *   *   *   *

PART V: PRICING AND RELATED INFORMATION [1]

FACTORS AFFECTING PRICES

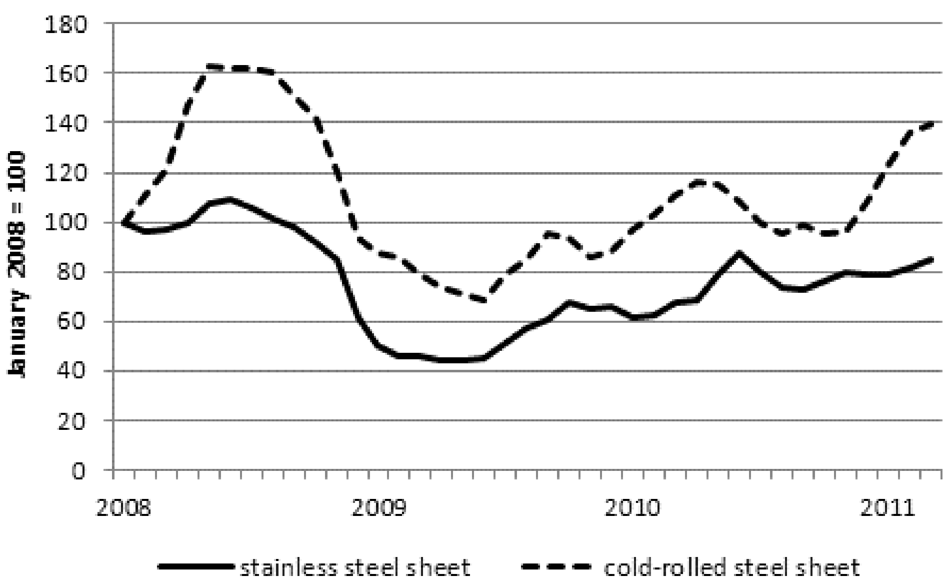
Raw Material Costs

Raw materials accounted for between *** and *** percent of U.S. producers' costs of goods sold during 2008-10, and thus are an important consideration in the price of bottom mount refrigerators. *** indicated that the principal raw materials used for producing bottom mount refrigerators include various plastics, resins, carbon steel, stainless steel, copper, aluminum, and packaging cardboard.[2]

Producers and importers were asked to describe the trends in raw materials prices, and whether they expected those trends to continue. Among both producers and importers, *** indicated that raw materials prices had been rising, and that *** expected that such prices would continue to rise. *** attributed rising raw material prices to ***.

Figure V-1 displays the price of two raw materials, cold-rolled steel and stainless steel sheet.

Figure V-1
Raw Materials: Price Indices of Cold-rolled Steel Sheet and Stainless Steel Sheet.



Source: American Metal Market and staff calculations.

U.S. Inland Transportation Costs

Among U.S. producers, U.S. inland transportation costs ranged from *** percent. *** arrange transportation for *** customers while *** has *** purchasers arrange transportation. *** shipped most of *** sales between 100 and 1,000 miles of *** production facilities, with most of the balance shipped

[1] *** submitted producers' and importers' questionnaires. For purposes of this chapter, and unless otherwise noted, ***.

[2] Staff telephone interview with ***, April 25, 2011.

over 1,000 miles from *** production facilities. *** all of *** sales within 100 miles of *** production facilities.[3]

Among importers, U.S. inland transportation costs ranged from *** percent. *** arrange transportation for *** customers, *** has *** purchasers arrange transportation, and ***. *** had a majority of *** sales between 100 and 1,000 miles of their storage facility, with most of the balance within 100 miles ***. ***.

PRICING PRACTICES

Pricing Methods

Whirlpool described typical pricing negotiations with retailers as consisting of suppliers suggesting a minimum advertised price (MAP) for retail sale. The supplier then negotiates a profit margin for the retailer, consisting of a percentage of the MAP. During promotional periods, the supplier will reduce the MAP and provide additional promotional support to preserve the retailer's profit margin.[4] Home Depot added that MAPs are enforced with financial penalties, including withdrawing support for cooperative advertising (and eventually not selling the product to the retailer). It added that MAPs do not always preserve retailers' margins. It also described two types of promotional pricing: reductions in MAPs on existing products; and special promotional products that are sold only on large sales dates (such as Black Friday). It stated that the latter type of promotions are planned months in advance.[5] Finally, it described MAPs as being generally within the same range across different bottom mount refrigerator products, and sometimes not changing over the life cycle of a particular product.[6]

Whirlpool also described most negotiations with retailers as taking place with an individual retailer's "buying group" that is looking to purchase a particular product, (e.g., bottom mount refrigerators, top mount refrigerators, etc.) for that retailer. However, Whirlpool also described larger agreements with individual retailers for all appliances (e.g., other white goods including laundry machines), for example, allowing volume rebates on all appliances in order to reach a particular level of sales.[7]

In their questionnaire responses, producers and importers reported a wide variety of methods for pricing, usually different for each individual producer or importer. Among producers, *** reported using *** to determine prices, while *** reported using ***. Among importers, *** reported using *** to determine prices, while *** reported using ***. *** reported using ***.

Producers and importers reported that *** were the most prevalent form of sales in 2010. Among producers, ***. Among importers, ***. ***.

***.

For short-term contracts, ***.

[3] ***.

[4] Conference transcript, pp. 31, 91 (Bitzer, Greenwald).

[5] Conference transcript, pp. 130-133 (Baird).

[6] Conference transcript, pp. 192-193 (Baird). Additionally, ***. Petitioner's postconference brief, p. 9. In its postconference brief, Whirlpool stated that ***. Petitioner's postconference brief, answers to ITC question 6.

[7] Conference transcript, p. 94 (Bitzer).

Sales Terms and Discounts

Among producers, *** stated that their typical sales terms were ***, while ***. Among importers, *** quoted prices on a delivered basis (with terms of ***) while *** quoted prices *** (with terms of ***).

***.

Direct and Indirect Discounts

Discounts on prices of bottom mount refrigerators fall into two categories: direct discounts (i.e., discounts, incentives, rebates, and other adjustments that are tied to the specific SKU being sold) and indirect discounts (i.e., allocated discounts, incentives, allowances, and rebates that could include volume discounts based on different products, including different white goods and electronic products).[8] Whirlpool described the indirect discounts as including advertising support.[9]

Questionnaire data on indirect discounts (i.e., any discount or rebate that applied to both bottom mount refrigerators and other products) are presented in table V-1. Additionally, ***.[10]

Table V-1
Bottom mount refrigerators: Indirect discounts by firm, 2008 to 2010

*   *   *   *   *   *   *

PRICE DATA

The Commission requested U.S. producers and importers of bottom mount refrigerators to provide quarterly data for the total quantity and net f.o.b. value of bottom mount refrigerators that were shipped to unrelated customers in the U.S. market. Data were requested for the period January 2008-December 2010**,** and specification sheets for all SKUs that fell under each product were also requested. The products for which pricing data were requested are as follows:

Product 1A: **2 external doors; total capacity of 21.5-22.4 cubic feet; stainless steel; single evaporator; no external ice/water dispenser, but with an internal icemaker; Energy Star rated. Report for all SKUs that fall under this definition.**

Product 1B: **For each quarter during the period, report data for Product 1A, but only for firm's highest-volume SKU falling within this product definition.**

Product 2A: **4 external doors and/or drawers; total capacity of 24.5-25.4 cubic feet; stainless steel; single evaporator; external ice and water dispenser; Energy Star rated. Report for all SKUs that fall under this definition.**

Product 2B: **For each quarter during the period, report data for Product 2A, but only for firm's highest-volume SKU falling within this product definition.**

[8] Petition, p. 129.

[9] Conference transcript, p. 31 (Bitzer).

[10] ***.

Product 3A: **4 external doors and/or drawers; total capacity of 27.5+ cubic feet; stainless steel; dual evaporators; external ice and water dispenser; Energy Star rated. Report for all SKUs that fall under this definition.**

Product 3B: **For each quarter during the period, report data for Product 3A, but only for firm'shighest-volume SKU falling within this product definition.**

Product 4A: **3 external doors; total capacity of 26.5-27.4 cubic feet; stainless steel; single evaporator; external ice/water dispenser; Energy Star rated. Report for all SKUs that fall under this definition.**

Product 4B: **For each quarter during the period, report data for Product 4A, but only for firm's highest-volume SKU falling within this product definition.**

Product 5A: **3 external doors; total capacity of 27.5+ cubic feet; stainless steel; dual evaporators; external ice/water dispenser; Energy Star rated. Report for all SKUs that fall under this definition.**

Product 5B: **For each quarter during the period, report data for Product 5A, but only for firm's highest-volume SKU falling within this product definition.**

Product 6A: **3 external doors and/or drawers; total capacity of 22.5 - 26 cubic feet; stainless steel; external ice and water dispenser; Energy Star rated. Report for all SKUs that fall under this definition.**

Product 6B: **For each quarter during the period, report data for Product 6A, but only for firm's highest-volume SKU falling within this product definition.**

Product 7A: **3 external doors and/or drawers; total capacity of 22.5 - 26 cubic feet; stainless steel; no external ice and water dispenser; Energy Star rated. Report for all SKUs that fall under this definition.**

Product 7B: **For each quarter during the period, report data for Product 7A, but only for firm's highest-volume SKU falling within this product definition.**

Products 1B, 2B, 3B, 4B, and 5B were suggested by the petitioner. Respondents suggested that data be requested for all SKUs of the petitioner's suggested products, and also suggested products 6A and 7A. The petitioner recommended requesting data on the highest-volume SKU for each quarter for each product in order to ensure that the products were "broadly 'comparable.'"[11] In short, the 'A' products represent all SKUs for a given product description, while the 'B' products represent only the highest-volume SKU for each quarter.

*** provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.[12] Pricing data reported by these firms accounted for approximately *** percent of U.S. producers' U.S. shipments of bottom mount refrigerators, *** percent

[11] Petition, p. 129.

[12] ***. Staff telephone interview with ***, April 12, 2011.

of U.S. shipments of subject imports from Korea,[13] and *** percent of U.S. shipments of subject imports from Mexico in 2010.[14]

Price Data and Discounts

In its petition, Whirlpool expressed concern about how individual questionnaire respondents would allocate indirect discounts, and thus asked that the Commission ask for pricing data net of direct discounts only.[15] Questionnaires requested pricing data net of direct discounts but not indirect discounts. However, questionnaires did request total 2010 indirect discounts as allocated to specific products. Those data are summarized in table V-2.

Table V-2
Bottom mount refrigerators: Indirect discounts as a percentage of pricing product values, 2010

* * * * * * *

***[16] ***.[17]

Respondents stated that the proper way to analyze the pricing data is to compare prices net of all discounts, direct and indirect.[18] Respondents submitted a pricing analysis based on estimating direct and indirect discounts and applying these discounts to the pricing data. The Commission did not collect data on indirect discounts for each pricing product for each quarter, but did request 2010 indirect discounts for each pricing product, and also requested total annual indirect discounts and the total value of goods to which they applied. ***.[19]

Price Trends and Comparisons

Pricing data are presented in tables V-3 to V-16 and figure V-2. A summary of price trends is presented in table V-17.

Table V-3
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic and imported product 1A,[1] and margins of (overselling)/underselling by quarters, January 2008-December 2010

* * * * * * *

Data for products 1A and 1B were provided by ***. For ***, product 1B was *** used to provide data for product 1A, while product 1B was *** in *** data for product 1A and one of *** in *** data for product 1A.

---

[13] ***.

[14] These estimates use only the quantities of the "A" products, as the "B" products are included in the "A" products.

[15] Petition, p. 129.

[16] Email from ***, April 26, 2011.

[17] ***, April 26, 2011.

[18] LG's postconference brief, p. 20, and ***, April 26, 2011.

[19] LG's postconference brief, exhibits 11 and 12, and Samsung's postconference brief, exhibit 9.

Table V-4
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic and imported product 1B,[1] and margins of (overselling)/underselling by quarters, January 2008-December 2010

* * * * * * *

Table V-5
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic and imported product 2A,[1] and margins of (overselling)/underselling by quarters, January 2008-December 2010

* * * * * * *

Data for products 2A and 2B were provided by ***. For ***, product 2B was *** used to provide data for product 2A, while product 2B was *** in *** data for product 2A. ***.

Table V-6
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic and imported product 2B,[1] and margins of (overselling)/underselling by quarters, January 2008-December 2010

* * * * * * *

Table V-7
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic and imported product 3A,[1] and margins of (overselling)/underselling by quarters, January 2008-December 2010

* * * * * * *

Products 3A and 3B share many specifications with products 2A and 2B, but are larger and have dual evaporators. Data for products 3A and 3B were provided by ***. For *** product 3B was *** used to provide data for product 3A.

Table V-8
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic and imported product 3B,[1] and margins of (overselling)/underselling by quarters, January 2008-December 2010

* * * * * * *

Table V-9
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic and imported product 4A,[1] and margins of (overselling)/underselling by quarters, January 2008-December 2010

* * * * * * *

Data for products 4A and 4B were provided by ***. For *** product 4B was *** used to provide data for product 4A, while product 4B was *** in *** data for product 4A.

***.

Table V-10
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic and imported product 4B,[1] and margins of (overselling)/underselling by quarters, January 2008-December 2010

* * * * * * *

Table V-11
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic and imported product 5A,[1] and margins of (overselling)/underselling by quarters, January 2008-December 2010

* * * * * * *

Data for products 5A and 5B were provided by ***. For *** product 5B was *** used to provide data for product 5A, while product 5B was *** in *** data for product 5A. ***.

Table V-12
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic and imported product 5B,[1] and margins of (overselling)/underselling by quarters, January 2008-December 2010

* * * * * * *

Table V-13
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic and imported product 6A,[1] and margins of (overselling)/underselling by quarters, January 2008-December 2010

* * * * * * *

Data for products 6A and 6B were provided by ***. For ***, product 6B was *** used to provide data for product 6A, while product 6B was *** in *** data for product 6A.

Table V-14
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic and imported product 6B,[1] and margins of (overselling)/underselling by quarters, January 2008-December 2010

* * * * * * *

Table V-15
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic and imported product 7A,[1] and margins of (overselling)/underselling by quarters, January 2008-December 2010

* * * * * * *

Data for products 7A and 7B were provided by ***. For *** product 7B was *** used in data for product 7A; for ***; for ***; and for ***, ***.

Table V-16
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic and imported product 7B,[1] and margins of (overselling)/underselling by quarters, January 2008-December 2010

* * * * * * *

Figure V-2
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of products 1A-7B, January 2008-December 2010

* * * * * * *

Table V-17
Bottom mount refrigerators: Summary of weighted-average f.o.b. prices for products 1A-7B from the United States, Korea, and Mexico

* * * * * * *

Price Comparisons

Margins of underselling and overselling for the period are presented in table V-18. Results are presented separately for the "A" products and the "B" products as data for the "B" products are always included in data for the A products. As can be seen from the table, U.S. product was undersold by Korean and Mexican product more often than it was oversold, and for both "A" and "B" products.

Table V-18
Bottom mount refrigerators: Instances of underselling/overselling and the range and average of margins, January 2008-10

* * * * * * *

Features

Commission questionnaires also requested data on the cost of several common features for bottom mount refrigerators. Those data are summarized in table V-19. The petitioner provided comparisons of the features in questionnaire respondents' "B" products in their postconference brief.[20]

Table V-19
Bottom mount refrigerators: Reported cost of features

* * * * * * *

[20] Petitioner's postconference brief, exhibit 8.

Other Price Data

The NPD Group, a retail market research information firm, collects and provides data on the retail price of bottom mount refrigerators. Both the petitioner and respondents performed analysis based on NPD data. However, Whirlpool also alleged that the use of average retail data can be misleading because it does not take into account important feature differences.[21] Respondents, on the other hand, characterized such retail-level data as the correct level of analysis for price comparisons among bottom mount refrigerators.[22]

Separately, Home Depot stated that LG bottom mount refrigerators typically carry a 10 percent premium over Whirlpool and GE bottom mount refrigerators.[23] Additionally, Samsung stated that, due to product life cycles for particular models of bottom mount refrigerators, prices naturally decline over time for a particular model, as they do with other expensive items such as televisions and automobiles.[24]

LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of bottom mount refrigerators to report any instances of lost sales or revenues they experienced due to competition from imports of bottom mount refrigerators from Korea or Mexico during January 2008 to December 2010.

Lost Sales

*** reported a lost sale with ***. In this allegation, the petitioner stated that ***.[25]
***.[26]

Lost Revenues

The petitioner described losing revenues from lowering prices of particular products at multiple retailers, due to competition with product from LG and Samsung. However, the petitioner was unable to provide traditional lost revenues allegations because revenues are not lost on large orders placed by retailers, but rather on a rolling basis according to customer orders. Commission staff sent a list of questions (based on petitioner allegations) on the price reductions of particular products to eight purchasers (***), seven of which responded. Each question presented an allegation of ***). Purchasers were asked whether *** lowered its prices as alleged, whether *** lowered their prices as alleged, and whether *** lowered its prices to meet reduced bids from ***.

The allegations, and responses, are summarized in table V-20. As can be seen from the table, purchasers were somewhat more likely to report that *** had reduced its prices than not (12 “yes” responses to 8 “no” responses), but slightly more likely to report that *** had not reduced prices (10 “yes” responses to 11 “no” responses). ***.

---

[21] Conference transcript, p. 32 (Bitzer) and pp. 199-200 (Greenwald).

[22] LG’s postconference brief, p. 11.

[23] Conference transcript, p. 131 (Baird).

[24] Conference transcript, p. 118 (Politeski).

[25] Petition, p. 132 and ***.

[26] Staff telephone interview with ***, April 28, 2011.

Table V-20
Bottom mount refrigerators: U.S. producers' lost revenue allegations with responses from purchasers

*   *   *   *   *   *   *

PART VI: FINANCIAL CONDITION OF U.S. PRODUCERS

BACKGROUND

Three producers,[1] provided usable financial data on their bottom mount refrigerators operations. These firms accounted for the vast majority of the domestic industry's production/sales volume during the period. *** reported internal consumption of bottom mount refrigerators, and these sales accounted for approximately *** percent of the industry's 2010 sales values, while *** reported transfers to related firms (approximately *** percent of combined sales value of 2010). The unit sales values of *** were lower than the unit sales values of its commercial sales between 2008 and 2010.[2]

OPERATIONS ON BOTTOM MOUNT REFRIGERATORS

Aggregate income-and-loss data for the U.S. producers are presented in table VI-1. To summarize, the overall financial condition of the domestic bottom mount refrigerators industry deteriorated between 2008 and 2010, from an operating income of $*** to an operating loss of $*** in 2010, due mainly to the decreased average unit sales value ("AUV") over the period. Most of the deterioration occurred from 2009 to 2010, as AUV decreased, even though net sales quantities increased, average unit total costs also increased slightly between 2009 and 2010.
From 2009 to 2010, a decrease in AUV ($*** per unit) as well as an increase in unit total costs ($*** per unit), i.e., cost of goods sold ("COGS") and selling, general, and administrative ("SG&A") expenses combined resulted in an operating loss in 2010. Operating income margin continuously decreased from *** percent in 2008 to *** percent in 2010.

Table VI-1
Bottom mount refrigerators: Results of operations of U.S. producers, fiscal years 2008-10

*   *   *   *   *   *   *

Selected company-by-company data are presented in table VI-2. Total net sales (quantities and values), per-unit values (sales, COGS, SG&A, and operating income), operating income, and the ratio of operating income (loss) to net sales are presented in this table on a firm-by-firm basis. Both *** reported decreased sales quantities and values between 2008 and 2010. *** sales quantities and values decreased from 2008 to 2009 and then increased from 2009 to 2010. The unit sales values, unit COGS and unit SG&A of *** are much higher compared to those of *** due primarily to product mixes. Further, the sales quantities and values of *** are very small to compared to sales volume and values of ***. Therefore, it is not advisable to compare the unit values of each producer among all three producers. While per-unit raw material costs decreased over the period, per-unit direct labor and factory overhead costs increased somewhat during the same period, as well as per-unit SG&A expenses (except 2009).[3] ***. While ***.

---

[1] All three producers have their fiscal years end on December 31. An additional producer, ***, submitted questionnaire response. However, its response was not used because it contained inconsistent financial data and it reported very small amount of transfer sales only (less than ***).

[2] ***. E-mail from ***, April 21, 2011.

[3] ***. Based on Whirlpool's Form 10-K for the fiscal year ended December 31, 2010 and annual report filed on February 14, 2011, SG&A expenses as a percentage of net sales by region was 6.8 percent for North America and 8.7 percent for consolidated basis. In its response to the Commission staff's inquiry about it, ***. E-mail from ***, April 21, 2011.

Table VI-2
Bottom mount refrigerators: Results of operations of U.S. producers, by firm, fiscal years 2008-10

*   *   *   *   *   *   *

Selected aggregate per-unit cost data of the producers on their operations, i.e., COGS and SG&A expenses, are presented in table VI-3. Overall per-unit COGS and total cost (which includes SG&A expenses) decreased from 2008 to 2009 and increased from 2009 to 2010, driven mainly by changes in SG&A expenses.

Table VI-3
Bottom mount refrigerators: Average unit costs of U.S. producers, fiscal years 2008-10

*   *   *   *   *   *   *

The variance analysis showing the effects of prices and volume on the producers' sales of bottom mount refrigerators, and of costs and volume on their total cost, is shown in table VI-4.[4] The summary at the bottom of the table illustrates that from 2008 to 2010 the negative effect of decreased prices was more than the positive effect of decreased costs and expenses. The variance analysis indicates that the decrease in operating income of $*** resulted from the combined negative effect of decreased price ($***) and decreased sales volume ($***), despite of decreased costs/expenses ($***).

Table VI-4
Bottom mount refrigerators: Variance analysis of operations of U.S. producers, fiscal years 2008-10

*   *   *   *   *   *   *

*** of domestic producers reported Energy Efficient Appliance Federal Tax Credit for bottom mount while ***. ***.[5]

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

The responding firms' aggregate data on capital expenditures and research and development ("R&D") expenses are presented in table VI-5. While *** reported capital expenditures, the majority were spent by *** during the period for which data were collected. While capital expenditures decreased substantially between 2008 and 2010, R&D expenses increased throughout this period. Data for capital expenditures on a firm-by-firm basis are shown in table VI-6.

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[4] The Commission's variance analysis is calculated in three parts: sales variance, COGS variance, and SG&A expenses variance. Each part consists of a price variance (in the case of the sales variance) or a cost variance (in the case of the COGS and SG&A variances) and a volume variance. The sales or cost variance is calculated as the change in unit price/cost times the new volume, while the volume variance is calculated as the change in volume times the old unit price/cost. Summarized at the bottom of the respective tables, the price variance is from sales, the cost/expense variance is the sum of those items from COGS and SG&A, respectively, and the net volume variance is the sum of the price, COGS, and SG&A volume variance. All things being equal, a stable overall product mix generally enhances the utility of the Commission's variance analysis.

[5] In its questionnaire response submitted on April 18, 2011. ***, Postconference brief, part II, question 7.

Table VI-5
Bottom mount refrigerators: Capital expenditures and R&D expenses by U.S. producers, fiscal years 2008-10

* * * * * * *

Table VI-6
Bottom mount refrigerators: Capital expenditures by U.S. producers, by firms, fiscal years 2008-10

* * * * * * *

ASSETS AND RETURN ON INVESTMENT

U.S. producers were requested to provide data on their assets used in the production and sales of bottom mount refrigerators during the period for which data were collected to assess their return on investment ("ROI"). The total net asset assets increased continuously from 2008 to 2010. At the same time, the return on the assets turned from positive to negative from 2009 to 2010 as operating income decreased and turned to an operating loss in 2010. The trend of ROI over the period was the same as the trend of the operating income margin shown in table VI-1.

Table VI-7
Bottom mount refrigerators: Value of assets and return on investment of U.S. producers, fiscal years 2008-10

* * * * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual negative or potential effects on their return on investment, or their growth, investment, ability to raise capital, existing development and production efforts, or the scale of capital investments as a result of imports of bottom mount refrigerators from Korea and Mexico. Their responses were as follows:

Actual Negative Effects

GE.–***

Viking.–***

Whirlpool.–***

Anticipated Negative Effects

GE.–***

Viking.–***

Whirlpool.–***

PART VII: THREAT CONSIDERATIONS

Section 771(7)(F)(i) of the Act (19 U.S.C. § 1677(7)(F)(i)) provides that–

> In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors[1]--
>
> (I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,
>
> (II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,
>
> (III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,
>
> (IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,
>
> (V) inventories of the subject merchandise,
>
> (VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,
>
> (VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

[1] Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "The Commission shall consider {these factors} . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition."

> (VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and
>
> (IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).[2]

Information on the nature of the alleged subsidies was presented earlier in this report; information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN KOREA

The Commission received responses from two firms accounting for the vast majority of production of bottom mount refrigerators in Korea and all exports to the United States from Korea.[3] The two reporting producers in Korea include: (1) LG Electronics, Inc. ("LG Korea")[4] and (2) Samsung Electronics Co., Ltd. ("Samsung Korea").[5] Table VII-1 shows 2010 capacity, production, and export shipment data for the individual firms.

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[2] Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

[3] Daewoo also produces bottom mount refrigerators in Korea, but does not export them to the United States Petition, p. 19 n. 22. Daewoo did not submit a foreign producer questionnaire to the Commission.

[4] LG Korea is affiliated with LG Electronics USA, Inc., a U.S. importer of the subject product; LG Electronics Monterrey Mexico, S.A. de C.V., a producer of bottom mount refrigerators in Mexico; Taizhou LG Electronics Co., Ltd., a producer of bottom mount refrigerators in China, and LG Electronics RUS, LLC, a producer of bottom mount refrigerators in Russia. Foreign producer's questionnaire response of LG Korea, questions I-4 & I-5.

[5] Samsung Korea is affiliated with Samsung Electronics America, Inc., a U.S. importer of the subject product; Samsung Electronics Mexico S.A. de C.V., a producer of bottom mount refrigerators in Mexico; Suzhou Samsung Electronics Co., Ltd. (China), a producer of bottom mount refrigerators in China for distribution in the Chinese market; and Samsung Electronics Poland Manufacturing Sp., a producer of refrigeration products in Poland. Foreign producer's questionnaire response of Samsung Korea, questions I-4 & I-5.

Table VII-1
Bottom mount refrigerators: Korea's reported production capacity, production, and shipments, by firm, 2010

Producer	Share of reported 2010 production in Korea *(percent)*	Quantity *(actual units)*; capacity utilization and share of total shipments *(percent)*				
		Capacity	Production	Capacity utilization	Exports to the U.S.	Share of total shipments exported to the U.S.
LG Korea	***	***	***	***	***	***
Samsung Korea	***	***	***	***	***	***
Total	100.0	***	***	***	***	***

Source: Compiled from data submitted in Commission questionnaire responses.

LG Korea

LG Korea reported that *** percent of its total sales in the most recent fiscal year were sales of bottom mount refrigerators. In 2010, *** percent of LG Korea's total shipments of bottom mount refrigerators were exported to the United States, *** percent of its total shipments were to its home market, and *** percent of its total shipments were to export markets such as ***. LG Korea's exports to the United States increased by *** percent from 2008 to 2010. LG Korea's reported capacity *** from 2008 to 2010 and is projected to *** in 2011 and 2012.[6] Its production increased by *** percent from 2008 to 2010, and is projected to *** in 2011 and 2012.[7] LG Korea reported that it shipped to *** U.S. importers of bottom mount refrigerators during the period of investigation, ***.

Samsung Korea

Samsung Korea reported that *** percent of its total sales in the most recent fiscal year were sales of bottom mount refrigerators. In 2010, *** percent of Samsung Korea's total shipments of bottom mount refrigerators were exported to the United States, *** percent of its total shipments were to its home market, and *** percent of its total shipments were to export markets such as ***. Samsung Korea's exports to the United States increased by *** percent from 2008 to 2010. Samsung Korea's reported capacity increased by *** percent from 2008 to 2010 and is projected to *** in 2011.[8] Its production increased by *** percent from 2008 to 2010, and is projected to *** in 2011.[9] Samsung Korea reported that it shipped to *** U.S. importers of bottom mount refrigerators during the period of investigation, ***.

Table VII-2 presents cumulative data for reported capacity, production, and shipments of certain coated paper for all reporting producers in China. Cumulatively, exports to the United States from

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[6] LG ***. LG's postconference brief, p. 44.

[7] LG Korea reported that ***. Foreign producer questionnaire response of LG Korea, questions II-4 and II-6.

[8] Samsung Korea reported that ***. Foreign producer's questionnaire of Samsung, question II-2. Samsung ***. Samsung's postconference brief, p. 49.

[9] Samsung Korea reported that ***. Foreign producer questionnaire response of Samsung Korea, questions II-4 and II-6.

Korean producers increased by *** percent from 2008 to 2010. Capacity in Korea increased by *** percent from 2008 to 2010 and is projected to *** in 2011. Production in Korea increased by *** percent from 2008 to 2010, and is projected to *** in 2011.

Table VII-2
Bottom mount refrigerators: Korea's reported production capacity, production, shipments, and inventories, 2008-2010, and projections for 2011

* * * * * * *

THE INDUSTRY IN MEXICO

The Commission received responses from four producers of bottom mount refrigerators in Mexico, which are believed to account for all production of bottom mount refrigerators in Mexico and all exports of the subject product. These firms included: (1) Electrolux Home Products Corp. ("Electrolux Mexico"); (2) LG Electronics Monterrey Mexico S.A. de C.V. ("LG Mexico");[10] (3) Mabe S.A. de C.V. ("Mabe");[11] and (4) Samsung Electronics Mexico S.A. de C.V. ("Samsung Mexico").[12] Table VII-3 shows 2010 capacity, production, and export shipment data for the individual firms.

Table VII-3
Bottom mount refrigerators: Mexico's reported production capacity, production, and shipments, by firm, 2010

Producer	Share of reported 2010 production in Mexico *(percent)*	Quantity *(actual units)*; capacity utilization and share of total shipments *(percent)*				
		Capacity	Production	Capacity utilization	Exports to the U.S.	Share of total shipments exported to the U.S.
Electrolux Mexico	***	***	***	***	***	***
LG Mexico	***	***	***	***	***	***
Mabe	***	***	***	***	***	***
Samsung Mexico	***	***	***	***	***	***
Total	100.0	***	***	***	***	***

Source: Compiled from data submitted in Commission questionnaire responses.

[10] LG Mexico is affiliated with LG Electronics USA, Inc., a U.S. importer of the subject product; LG Electronics, Inc., a producer of bottom mount refrigerators in Korea; Taizhou LG Electronics Co., Ltd., a producer of bottom mount refrigerators in China, and LG Electronics RUS, LLC, a producer of bottom mount refrigerators in Russia. Foreign producer's questionnaire response of LG Mexico, questions I-4 and I-5.

[11] Mabe and GE are affiliated as partners in a joint venture, which produces bottom mount refrigerators in Mexico for sale in the U.S. market under the GE brand.

[12] Samsung Mexico is affiliated with Samsung Electronics America, Inc., a U.S. importer of the subject product; Samsung Electronics Co., Ltd., a producer of bottom mount refrigerators in Korea; Suzhou Samsung Electronics Co., Ltd. (China), a producer of bottom mount refrigerators in China for distribution in the Chinese market; and Samsung Electronics Poland Manufacturing Sp., a producer of refrigeration products in Poland. Foreign producer's questionnaire response of Samsung Mexico, questions I-4 and I-5.

Electrolux Mexico

Electrolux Mexico reported that *** percent of its total sales in the most recent fiscal year were sales of bottom mount refrigerators. Electrolux Mexico reported that ***. In 2010, *** percent of Electrolux Mexico's total shipments of bottom mount refrigerators were exported to the United States, *** percent of its total shipments were to its home market, and *** percent of its total shipments were to export markets such as ***. Electrolux Mexico's exports to the United States increased by *** percent from 2009 to 2010. Electrolux Mexico's reported capacity increased by *** percent from 2009 to 2010 and is projected to *** in 2011. Its production increased by *** percent from 2009 to 2010, and is projected to *** in 2011.[13] Electrolux Mexico reported that it shipped to *** U.S. importer of bottom mount refrigerators during the period of investigation, ***.

LG Mexico

LG Mexico reported that *** percent of its total sales in the most recent fiscal year were sales of bottom mount refrigerators. In 2010, *** percent of LG Mexico's total shipments of bottom mount refrigerators were exported to the United States, *** percent of its total shipments were to its home market, and *** percent of its total shipments were to export markets such as ***. LG Mexico's exports to the United States increased by *** percent from 2008 to 2010. LG Mexico's reported capacity *** from 2008 to 2010 and is projected to *** in 2011 and 2012. Its production increased by *** percent from 2008 to 2010, and is projected to *** in 2011 and 2012.[14] LG Mexico reported that it shipped to *** U.S. importer of bottom mount refrigerators during the period of investigation, ***.

Mabe

Mabe reported that *** percent of its total sales in the most recent fiscal year were sales of bottom mount refrigerators. In 2010, *** percent of Mabe's total shipments of bottom mount refrigerators were exported to the United States, *** percent of its total shipments were to its home market, and *** percent of its total shipments were to export markets such as ***. Mabe's exports to the United States decreased by *** percent from 2008 to 2010. Mabe's reported capacity decreased by *** percent from 2008 to 2010 and is projected to *** in 2011 and 2012. Its production decreased by *** percent from 2008 to 2010, and is projected to *** in 2011 and 2012.[15] Mabe reported that it shipped to *** U.S. importer of bottom mount refrigerators during the period of investigation, ***.

Samsung Mexico

Samsung Mexico reported that *** percent of its total sales in the most recent fiscal year were sales of bottom mount refrigerators. Samsung Mexico reported that it ***. In 2010, *** percent of Samsung Mexico's total shipments of bottom mount refrigerators were exported to the United States, *** percent of its total shipments were to its home market, and *** percent of its total shipments were to export markets such as ***. Samsung Mexico's exports to the United States increased by *** percent from 2009 to 2010. Samsung Mexico's reported capacity increased by *** percent from 2009 to 2010 and is projected to *** in 2011. Its production increased by *** percent from 2009 to 2010, and is

[13] Electrolux reported that ***. Foreign producer questionnaire response of Electrolux, questions II-4-II-6.

[14] LG Mexico reported that ***. Foreign producer questionnaire response of LG Mexico, questions II-4 and II-6.

[15] Mabe reported that ***. Foreign producer questionnaire response of Mabe, questions II-4 and II-6.

projected to *** in 2011.[16] Samsung Mexico reported that it shipped to *** U.S. importers of bottom mount refrigerators during the period of investigation, ***.

Table VII-4 presents data for reported capacity, production, and shipments of bottom mount refrigerators for all reporting producers in Mexico. Cumulatively, exports to the United States from Mexican producers increased by *** percent from 2008 to 2010. Capacity in Mexico increased by *** percent from 2008 to 2010 and is projected to *** in 2011. Production in Mexico increased by *** percent from 2008 to 2010, and is projected to *** in 2011.

Table VII-4
Bottom mount refrigerators: Mexico's reported production capacity, production, shipments, and inventories, 2008-2010 and projections for 2011

* * * * * * *

U.S. IMPORTERS' INVENTORIES

Reported inventories held by U.S. importers of subject merchandise from Korea and Mexico and nonsubject countries are shown in table VII-5.

Table VII-5
Bottom mount refrigerators: U.S. importers' end-of-period inventories of subject and nonsubject imports, by sources, 2008-2010

* * * * * * *

U.S. IMPORTERS' CURRENT ORDERS

The Commission requested U.S. importers to indicate whether they imported or arranged for the importation of bottom mount refrigerators after December 31, 2010. *** U.S. importers stated that they had imported or arranged for importation since December 31, 2010. Table VII-6 presents the U.S. importers which indicated that they had imported or arranged for the importation of the subject product from Korea and Mexico and the quantity of those U.S. imports.

Table VII-6
Bottom mount refrigerators: U.S. importers' orders of subject imports from Korea and Mexico subsequent to December 31, 2010, by firm

* * * * * * *

ANTIDUMPING AND COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

Bottom mount refrigerators have not been the subject of an antidumping or countervailing duty investigation in any other country.

[16] Samsung Mexico reported that ***. Foreign producer questionnaire response of Samsung Mexico, questions II-4 and II-6.

INFORMATION ON PRODUCERS IN NONSUBJECT COUNTRIES

In assessing whether the domestic industry is materially injured or threatened with material injury "by reason of subject imports," the legislative history states "that the Commission must examine all relevant evidence, including any known factors, other than the dumped or subsidized imports, that may be injuring the domestic industry, and that the Commission must examine those other factors (including non-subject imports) 'to ensure that it is not attributing injury from other sources to the subject imports.'"[17]

Global Market

Table VII-7 presents the countries that represent the largest exporters of combination refrigerator-freezers in 2010, their top export market country, and the share of total exports accounted for by their largest export market. According to these data obtained from the Global Trade Atlas, the leading global exporters of combination refrigerator-freezers are Mexico, Korea, China, the United States, and Thailand.[18] Within the NAFTA countries, the majority of Mexico's exports are destined for the United States, and exports from the United States are destined primarily for Canada. The United States is also the leading export destination for combination refrigerator-freezer exports from Korea, while exports from Germany, Italy, Poland, and Turkey are distributed mainly to other European markets.

Table VII-7
Combination refrigerator-freezers: Leading global exporters of combined refrigerator-freezers of all sizes, top export destinations, and share of exports, 2010

Exporting country	Top export market	Share of exports destined for top market *(percent)*
Mexico	United States	85
Korea	United States	43
China	Japan	26
United States	Canada	78
Thailand	Australia	12
Singapore	China	96
Germany	Russia	11
Italy	Germany	25
Poland	France	19
Turkey	United Kingdom	22
Source: Global Trade Atlas (accessed April 26, 2011), HTS 8418.10		

[17] Mittal Steel Point Lisas Ltd. v. United States, Slip Op. 2007-1552 at 17 (Fed. Cir., Sept. 18, 2008), quoting from Statement of Administrative Action on Uruguay Round Agreements Act, H.R. Rep. 103-316, Vol. I at 851-52; see also Bratsk Aluminum Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006).

[18] Global Trade Atlas (accessed April 26, 2011), HTS 8418.10. Please note that subheading HTS 8418.10 encompasses all models of combination refrigerator-freezers, and therefore, a broader product definition than bottom mount refrigerators.

China

Table VII-8 presents the top export markets for combination refrigerator-freezers from China by country of destination and share of total exports in 2010. According to these data obtained from the Global Trade Atlas, China is the third largest global exporter of combination refrigerator-freezers.[19] These data show that more than a quarter of Chinese exports were destined for Japan in 2010. Other top export destinations included Italy, Russia, the United Kingdom, and France. Samsung reported that ***.[20] LG also reported that ***.[21]

Table VII-8
China's exports of combination refrigerator-freezers of all sizes, top export destinations, 2010

Export destination	Share of exports from China *(percent)*
Japan	26
Italy	8
Russia	7
United Kingdom	6
France	5
Spain	4
United States	4
Bangladesh	4
Germany	4
Netherlands	3
Source: Global Trade Atlas (accessed April 26, 2011), HTS 8418.10	

According to the National Bureau of Statistics of China, the country's output of household refrigerators was 47.6 million units in 2008, the most recent year for which data were provided. This was up from 12.8 million units in 2000.[22]

The following firms are believed to produce combination refrigerator-freezers in China either for export and/or for their domestic home market: (1) Haier, a privately-held manufacturer and exporter of household refrigerators;[23] (2) AB Electrolux, a subsidiary of Electrolux which plans to begin production of refrigerators in China in 2011; (3) LG, a subsidiary of the Korean producer; (4) BSH Bosch, a subsidiary of a producer of household appliances in Germany; and (5) Fisher & Paykel, the New Zealand based producer of refrigerators. In 2009, Haier acquired a 20 percent stake in Fisher & Paykel after which the two firms signed a cooperative agreement to share marketing and distribution sources in

[19] Global Trade Atlas (accessed April 26, 2011), HTS 8418.10

[20] Samsung's foreign producer questionnaire response.

[21] LG's importer questionnaire response.

[22] IBISWorld, *Global Household Appliance Manufacturing*, October 26, 2010.

[23] Datamonitor, "Haier Group," Company Profile, March 3, 2011, p. 5.

China.[24] Fisher-Paykel has refrigerator production facilities in Australia, Thailand, the United Kingdom, and Singapore.

Japan

Table VII-9 presents the top export markets for combined refrigerator-freezers from Japan by country of destination and share of total exports in 2010. According to these data obtained from the Global Trade Atlas, Japan is the world's 26th largest global exporter of combination refrigerator-freezers.

Table VII-9.
Japan's exports of combination refrigerator-freezers of all sizes, top export destinations, 2010

Export destination	Share of Japan's refrigerator exports *(percent)*
Taiwan	64
China	13
Russia	5
Hong Kong	5
Singapore	4
United States	3
Vietnam	1
Netherlands	1
United Arab Emirates	1
Philippines	1
Source: Global Trade Atlas (accessed April 26, 2011), HTS 8418.10	

According to the Japan Electrical Manufacturers' Association (JEMA), producers of combination refrigerator-freezers in Japan in 2009 included: (1) Daewoo Electronics Japan Co Ltd; (2) Domestic K. K.; (3) Electrolux Japan Ltd; (4) Hitachi Appliances Inc; (5) Miele Japan Corp.;(6) and Mitsubishi Electric Corp.[25] Japanese headquartered companies that produce refrigerators not listed above include: (1) Panasonic, the market leader in refrigeration appliances in Japan, accounting for 21 percent of volume in 2010;[26] (2) Sanyo, which was acquired by Panasonic in 2009 but retains its own branded products;[27] and (3) Sharp. JEMA also reported Japanese domestic production of refrigerators in 2009 as 2.0 million units, while overseas production was 9.5 million units. Domestic production declined over the last 10 years as Japanese companies increasingly pursued strategies in which companies shifted production to overseas factories and either imported back into Japan or shipped refrigerators directly to their intended overseas markets.[28]

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[24] Datamonitor, "Fisher & Paykel Appliances," May 27, 2010, p. 5.

[25] JEMA, "Maker List" for Home Electrical Appliances. Accessed (May 5, 2011) http://www.jema-net.or.jp/English/products/index.html

[26] Euromonitor Website http://www.euromonitor.com/refrigeration-appliances-in-japan/report

[27] Datamonitor, "Sanyo, Company Profile," March 11, 2011.

[28] JEMA, Annual Report 2009, (accessed May 5, 2011). http://www.jema-net.or.jp/English/report/index.html

Thailand

Table VII-10 presents the top export markets for combination refrigerator-freezers from Thailand by country of destination and share of total exports in 2010. According to these data obtained from the Global Trade Atlas, Thailand is the fifth largest global exporter of combination refrigerator-freezers. The destinations of exports from Thailand are less concentrated in one particular country, with the top destinations including Australia, Singapore, Malaysia, Vietnam, and Indonesia in 2010.

The following firms are believed to produce combination refrigerator-freezers in Thailand either for export and/or for their domestic home market: (1) Fisher-Paykel, ***;[29] and (2) Electrolux, a subsidiary of Electrolux, which will begin refrigerator production of refrigerators in 2011.[30]

Table VII-10
Thailand's exports of combination refrigerator-freezers of all sizes, top export destinations, 2010

Export destination	Share of Thailand's exports ***(percent)***
Australia	12
Singapore	8
Malaysia	7
Vietnam	6
Indonesia	5
United Arab Emirates	5
Philippines	4
Saudi Arabia	4
Japan	4
Hong Kong	3

Source: Global Trade Atlas (accessed April 26, 2011), HTS 8418.10

European Union

Germany is the seventh largest global exporter of combination refrigerator-freezers. Table VII-11 presents the top export markets for combination refrigerator-freezers from Germany by country of destination and share of total exports in 2010. According to these data obtained from the Global Trade Atlas, exports from Germany are destined to major markets throughout the European Union as well as Russia.

[29] U.S. importer's questionnaire response of ***.

[30] Datamonitor, "AB Electrolux, Company Profile, April 22, 2010, p. 4.

Table VII-11
Germany's exports of combination refrigerator-freezers of all sizes, top export destinations, 2010

Export destination	Share of Germany's exports *(percent)*
Russia	11
Austria	9
Spain	8
United Kingdom	7
Netherlands	7
France	7
Italy	7
Belgium	6
Poland	5
Switzerland	4
Source: Global Trade Atlas (accessed April 26, 2011), HTS 8418.10	

The following firms are believed to produce combination refrigerator-freezers in the European Union either for export and/or for their domestic home market: (1) Electrolux, which is the largest producer of home appliances and refrigerators in Europe. Electrolux (Sweden) has manufacturing facilities in 17 countries across the globe and produces refrigerators for export in Hungary, Poland;[31] (2) BSH Bosch und Siemens, a manufacturer of home appliances in Germany, including bottom mount refrigerators. BSH Bosch und Siemens has refrigerator production plants in Germany and Russia and produces premium refrigerators under the brand names Thermador and Gaggenau; [32] (3) Candy Hoover Group, which is a privately held Italian company, engaged in the design and manufacture of refrigerators and freezers. The group primarily operates in Europe with limited exports of combination refrigerator-freezers. Candy Hoover Group has manufacturing facilities in the Czech Republic;[33] (4) Indesit, which is a producer of household appliances, including combination refrigerator-freezers based in Italy. Indesit has manufacturing facilities in Italy and Poland;[34] (5) Arcelik, which is the third largest household appliance company in the European Union and the third largest combination refrigerator-freezer sales leader in the United Kingdom. It has refrigerator manufacturing facilities in Turkey and Russia; (6) Miele, which is a privately held German company engaged in manufacturing of premium brand refrigerators and freezers. The company has production plants in Austria, the Czech Republic, China, and Romania;[35] and (7) Samsung, a subsidiary of the producer of bottom mount refrigerators in Korea, produces refrigerators in Poland.[36]

[31] Electrolux's foreign producer questionnaire response.

[32] Datamonitor, "BSH Bosch und Siemens Hausgerate," August 9, 2010, p.6.

[33] DataMonitor, "Candy Hoover Group," Company Profile, December 9, 2010, p. 5.

[34] Indesit Company, Consolidated and Financial statements, December 31, 20009.

[35] Datamonitor, "Miele &Cie," Company Profile, August 2010, p. 5.

[36] Electrolux's foreign producer questionnaire response.

APPENDIX A

FEDERAL REGISTER NOTICES

which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before April 26, 2011, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: March 31, 2011.

James R. Holbein,

Acting Secretary to the Commission.

[FR Doc. 2011–8155 Filed 4–5–11; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–477 and 731–TA–1180–1181 (Preliminary)]

Bottom Mount Combination Refrigerator-Freezers From Korea and Mexico

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping and countervailing duty investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty Investigation Nos. 701–TA–477 and 731–TA–1180–1181 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (the Act) (19 U.S.C. 1671b(a) and 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of bottom mount combination refrigerator-freezers from Korea and Mexico, provided for in subheadings 8418.10.00, 8418.21.00, 8418.99.40, and 8418.99.80 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of Korea. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by May 16, 2011. The Commission's views are due at Commerce within five business days thereafter, or by May 23, 2011.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

DATES: EFFECTIVE DATE: March 30, 2011.

FOR FURTHER INFORMATION CONTACT: Christopher Cassise (202–708–5408), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on March 30, 2011, by Whirlpool Corporation, Benton Harbor, MI.

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register.** Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 1 p.m. on April 20, 2011, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Requests to appear at the conference should be filed in writing with the Secretary to the Commission on or before April 18, 2011. Parties in support of the imposition of antidumping and countervailing duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before April 25, 2011, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II(C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: March 31, 2011.

James R. Holbein,

Acting Secretary to the Commission.

[FR Doc. 2011–8084 Filed 4–5–11; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In Re Certain Polyimide Films, Products Containing Same, and Related Methods,* DN 2798; the Commission is soliciting comments on any public interest issues raised by the complaint.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint filed on behalf of Kaneka Corporation, on April 1, 2011. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain polyimide films, products containing same, and related methods. The complaint names as respondent SKC Kolon PI, Inc., of South Korea and SKC Corporation of Covington, GA.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this investigation would negatively affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the potential orders;

(iii) Indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and

(iv) Indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, five business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number ("Docket No. 2798") in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

By order of the Commission.

Issued: April 1, 2011.

James R. Holbein,

Acting Secretary to the Commission.

[FR Doc. 2011–8154 Filed 4–5–11; 8:45 am]

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separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 118.04 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

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

These amended final results are published in accordance with sections 751(h) and 777(i)(1) of the Act.

Dated: April 18, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–10083 Filed 4–25–11; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–865, A–201–839]

Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea and Mexico: Initiation of Antidumping Duty Investigations

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

DATES: *Effective Date:* April 26, 2011.

FOR FURTHER INFORMATION CONTACT: David Goldberger (Republic of Korea) or Henry Almond (Mexico), AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–4136 or (202) 482–0049, respectively.

SUPPLEMENTARY INFORMATION:

The Petitions

On March 30, 2011, the Department of Commerce ("the Department") received antidumping duty petitions concerning imports of bottom mount combination refrigerator-freezers ("bottom mount refrigerators") from the Republic of Korea ("Korea") and Mexico filed in proper form by Whirlpool Corporation ("the petitioner"), a domestic producer of bottom mount refrigerators. *See* Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea and Mexico; Antidumping and Countervailing Duty Petitions (collectively, "the petitions"). On April 5 and 12, 2011, the Department issued requests for additional information and clarification of certain areas of the antidumping petitions on Korea and Mexico. Based on the Department's request, the petitioner filed supplements to the petitions on Korea and Mexico on April 11 and 14, 2011.

In accordance with section 732(b) of the Tariff Act of 1930, as amended ("the Act"), the petitioner alleges that imports of bottom mount refrigerators from Korea and Mexico are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports materially injure, or threaten material injury to, an industry in the United States.

The Department finds that the petitioner filed these petitions on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act, and it has demonstrated sufficient industry support with respect to the investigations that it is requesting the Department to initiate (*see* "Determination of Industry Support for the Petitions" below).

Scope of Investigations

The products covered by these investigations are bottom mount refrigerators from Korea and Mexico. For a full description of the scope of the investigations, *please see* the "Scope of Investigations," in Appendix I of this notice.

Comments on Scope of Investigations

During our review of the petitions, we discussed the scope with the petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by May 9, 2011, 20 calendar days from the date of signature of this notice. All comments must be filed on the records of the Korea and Mexico antidumping duty investigations as well as the Korea countervailing duty investigation. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Comments on Product Characteristics for Antidumping Duty Questionnaires

We are requesting comments from interested parties regarding the appropriate physical characteristics of bottom mount refrigerators to be reported in response to the Department's antidumping questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to more accurately report the relevant costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as (1) general product characteristics and (2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe bottom mount refrigerators, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in product matching. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaires, we must receive comments at the above-referenced address by May 9, 2011. Additionally, rebuttal comments must be received by May 16, 2011. All comments must be filed on the records of both the Korea and Mexico antidumping duty investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that bottom mount refrigerators constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, see Antidumping Duty Investigation Initiation Checklist: Bottom Mount Combination Refrigerator-Freezers from Korea ("Korea AD Initiation Checklist") and Antidumping Duty Investigation Initiation Checklist: Bottom Mount Combination Refrigerator-Freezers from Mexico ("Mexico AD Initiation Checklist"), at Attachment II, Analysis of Industry Support for the Petitions Covering Bottom Mount Combination Refrigerator-Freezers, on file in the Central Records Unit ("CRU"), Room 7046 of the main Department of Commerce building.

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the petitions with reference to the domestic like product as defined in the "Scope of Investigations" section above. To establish industry support, the petitioner provided its production volume of the domestic like product in 2010, and compared it to the estimated total production of the domestic like product for the entire domestic industry. *See* Volume I of the petitions, at 8–11, Volume 2A of the petitions, at Exhibits 4 and 5, and Supplement to the AD/CVD petitions, dated April 11, 2011 ("Supplement to the AD/CVD petitions") at 2–4 and Exhibits S–1, S–2, and S–3. The petitioner estimated 2010 production of the domestic like product by non-petitioning companies based on its knowledge of its competitors and their production capacity. We have relied upon data the petitioner provided for purposes of measuring industry support. For further discussion, *see* Korea AD Initiation Checklist and Mexico AD Initiation Checklist, at Attachment II.

Our review of the data provided in the petitions, supplemental submissions, and other information readily available to the Department indicates that the petitioner has established industry support. First, the petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling). *See* section 732(c)(4)(D) of the Act, Korea AD Initiation Checklist and Mexico AD Initiation Checklist, at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the petitions account for at least 25 percent of the total production of the domestic like product. *See* Korea AD Initiation Checklist and Mexico AD Initiation Checklist, at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petitions. Accordingly, the Department determines that the petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See id.*

The Department finds that the petitioner filed the petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the antidumping duty investigations that it is requesting the Department initiate. *See id.*

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value ("NV"). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

The petitioner contends that the industry's injured condition is illustrated by reduced market share, reduced shipments, underselling and price depression or suppression, decline in financial performance, lost sales and revenue, and increase in the volume of imports and import penetration. *See* Volume I of the petitions, at 114–138, Volume 2A of the petitions, at Exhibit 6, Volume 2B of the petitions, at Exhibits 35 and 38–42, and Supplement to the AD/CVD petitions, at 5–10 and Exhibits S–1, S–2, S–4, and S–5. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* Korea AD Initiation Checklist and Mexico AD Initiation Checklists, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Petitions Covering Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea and Mexico.

Period of Investigations

In accordance with 19 CFR 351.204(b), because these petitions were filed on March 30, 2011, the period of investigation ("POI") is January 1, 2010, through December 31, 2010, for both Korea and Mexico.

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department has based its decision to initiate investigations with respect to Korea and Mexico. The sources of, and adjustments to, the data relating to U.S. price and NV are discussed in greater detail in the Korea AD Initiation Checklist and the Mexico AD Initiation Checklist.

Korea

U.S. Price

The petitioner provided two U.S. prices based on average model-specific retail prices obtained from a market survey database. These prices were adjusted to exclude the retailer markup, as well as discounts and rebates, based on the petitioner's experience in and knowledge of the market. The petitioner deducted international freight based on U.S. Customs and Border Protection ("CBP") data. It made no other adjustments to U.S. price. *See* Korea AD Initiation Checklist.

Normal Value

The petitioner provided two home market prices based on a survey of retail prices in Korea. These prices were adjusted to exclude the retailer markup, as well as discounts and rebates, based on the petitioner's experience in and knowledge of the market. The petitioner further adjusted home market price by deducting Korean VAT and other taxes. It made no other adjustments to home market price.

In order to calculate NV, the petitioner made an adjustment for differences in costs attributable to differences in the physical characteristics of the merchandise. *See* Korea AD Initiation Checklist.

Mexico

U.S. Price

The petitioner provided two U.S. prices based on average model-specific retail prices obtained from a market survey database. These prices were adjusted to exclude the retailer markup, as well as discounts and rebates, based on the petitioner's experience in and knowledge of the market. Because the Mexican producers sell refrigerators in the United States through affiliated resellers, the petitioner calculated constructed export price ("CEP") by deducting international freight based on CBP data and U.S. freight and selling expenses based on the petitioner's own financial statements for its U.S. operations related to bottom mount refrigerators. *See* Mexico AD Initiation Checklist.

Normal Value

The petitioner provided two home market prices based on retail prices available in Mexico. These prices were adjusted to exclude the retailer markup, as well as discounts and rebates, based on the petitioner's experience in and knowledge of the market. The petitioner calculated a net home market price by deducting inland freight and selling expenses based on the petitioner's financial statements for its operations in Mexico related to refrigerator production and sales.

In order to calculate NV, the petitioner made an adjustment for differences in costs attributable to differences in the physical characteristics of the merchandise. *See* Mexico AD Initiation Checklist.

Sales-Below-Cost Allegations

The petitioner provided information demonstrating reasonable grounds to believe or suspect that sales of bottom mount refrigerators in the Korean and Mexican markets were made at prices below the fully-absorbed cost of production ("COP"), within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation. The Statement of Administrative Action ("SAA"), submitted to the Congress in connection with the interpretation and application of the Uruguay Round Agreements Act ("URAA"), states that an allegation of sales below COP need not be specific to individual exporters or producers. *See* SAA, URAA, H. Doc. 316, Vol. 1, 103d Cong. (1994) at 833. The SAA, at 833, states that "Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation."

Further, the SAA provides that section 773(b)(2)(A) of the Act retains the requirement that the Department have "reasonable grounds to believe or suspect" that below-cost sales have occurred before initiating such an investigation. *See id.* Reasonable grounds exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices.

Korea

Cost of Production

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing ("COM"); selling, general and administrative ("SG&A") expenses; financial expenses; and packing expenses. The petitioner relied on its own production experience to calculate the raw material, packing, and freight costs included in the calculation of COM. The petitioner adjusted these inputs to account for known differences in weights and technologies between the petitioner's U.S. bottom mount refrigerator models and those of the Korean producers' bottom mount refrigerator models sold in the comparison market and the United States. Inbound freight was calculated based on the petitioner's own experience adjusted for differences in weight between the bottom mount refrigerator models used to calculate COP/constructed value ("CV") and the Korean models.

The petitioner relied on its own labor costs, adjusted for known differences between the U.S. and Korean hourly compensation rates for electrical equipment, appliance, and component manufacturing in 2007, as reported by the U.S. Bureau of Labor Statistics. The petitioner relied on its own experience to determine the per-unit factory overhead costs (exclusive of labor) associated with the production of bottom mount refrigerators.

The petitioner stated that the bottom mount refrigerator manufacturing processes in Korea are very similar to its own manufacturing processes, and therefore it is reasonable to estimate the Korean producers' usage and factory overhead rates based on the usage and factory overhead rates experienced by a U.S. bottom mount refrigerator producer. The petitioner also asserted that the use of Korean import data results in aberrationally higher weighted-average raw material and packing costs in comparison to the petitioner's own raw material and packing costs. Therefore, the reliance on the petitioner's own raw material and packing costs for purposes of calculating COP is conservative.

To value SG&A and financial expense rates, the petitioner relied on the fiscal year 2009 financial statements of two Korean producers of bottom mount refrigerators. *See* Korea AD Initiation Checklist for further discussion.

Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the most comparable product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating a country-wide cost investigation for Korea.

Normal Value Based on Constructed Value

Because it alleged sales below cost for Korea, pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioner calculated NV based on CV. The petitioner calculated CV using the same average COM, SG&A, financial and packing figures used to compute the COP. The petitioner did not include in the CV calculation an amount for profit. *See* Korea AD Initiation Checklist.

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of bottom mount refrigerators from Korea are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of U.S. Price to home market price, as discussed above, the estimated dumping margin is 61.82. Based on a comparison of U.S. price to CV, as discussed above, the estimated dumping margin is 34.16 percent. *See id.*

Mexico

Cost of Production

Pursuant to section 773(b)(3) of the Act, COP consists of the COM; SG&A expenses; financial expenses; and packing expenses. The petitioner relied on its own production experience to calculate the quantity of the raw material and packing inputs, as well as the freight costs included in the calculation of COM. The petitioner adjusted the value of the raw material and packing inputs using the ratio of prices paid in Mexico by the bottom mount refrigerator producers to its own prices. The petitioner further adjusted these input values to account for known differences in weights and technologies between the petitioner's U.S. bottom mount refrigerator models used for purposes of calculating COP and CV and the Mexican bottom mount refrigerator models sold in the comparison market and the United States. Inbound freight was calculated based on the petitioner's own experience adjusted for differences in weight between the bottom mount refrigerator models used to calculate COP/CV and the Mexican models.

The petitioner relied on its own labor costs, adjusted for known differences between the U.S. and Mexican hourly compensation rates for electrical equipment, appliance, and component manufacturing in 2007, as reported by the U.S. Bureau of Labor Statistics. The petitioner relied on its own experience to determine the per-unit factory overhead costs (exclusive of labor) associated with the production of bottom mount refrigerators.

The petitioner stated that the bottom mount refrigerator manufacturing process in Mexico is very similar to its own manufacturing process, and therefore it is reasonable to estimate the Mexican producers' usage and factory overhead rates based on the usage and factory overhead rates experienced by a U.S. bottom mount refrigerator producer.

To value general and administrative (G&A) expenses, the petitioner relied on the 2010 financial statements of its Mexican subsidiary. The petitioner assumed a financial expense of zero. *See* the Mexico AD Initiation Checklist for further discussion.

Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the most comparable product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating a country-wide cost investigation for Mexico.

Normal Value Based on Constructed Value

Because it alleged sales below cost for Mexico, pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioner calculated NV based on CV. The petitioner calculated CV using the same average COM, G&A, financial and packing figures used to compute the COP. The petitioner also included an amount for profit in the CV calculation, based upon the petitioner's own financial statements related to production and sales of refrigerators in Mexico. *See* Mexico AD Initiation Checklist.

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of bottom mount refrigerators from Mexico are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of U.S. Price to home market price, as discussed above, the estimated dumping margin is 183.18 percent. Based on a comparison of U.S. Price to CV, as discussed above, the estimated dumping margin is 23.10 percent. *See id.*

Initiation of Antidumping Investigations

Based upon the examination of the petitions on bottom mount refrigerators from Korea and Mexico and other information reasonably available to the Department, the Department finds that these petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of bottom mount refrigerators from Korea and Mexico are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act, unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Targeted Dumping Allegations

On December 10, 2008, the Department issued an interim final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions governing the targeted dumping analysis in antidumping duty investigations, and the corresponding regulation governing the deadline for targeted-dumping allegations, 19 CFR 351.301(d)(5). *See Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations,* 73 FR 74930

(December 10, 2008). The Department stated that "{w}ithdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area." *See id.,* at 74931.

In order to accomplish this objective, if any interested party wishes to make a targeted dumping allegation in any of these investigations pursuant to section 777A(d)(1)(B) of the Act, such allegations are due no later than 45 days before the scheduled date of the country-specific preliminary determination.

Respondent Selection

Although the Department normally relies on import data from CBP to select respondents in antidumping duty investigations involving market-economy countries, the Harmonized Tariff Schedule of the United States (HTSUS) categories under which bottom mount refrigerators may be entered are basket categories which include many other types of refrigerators and freezers. Therefore, the CBP data cannot be isolated to identify imports of subject merchandise during the POI. Accordingly, the Department must rely on an alternate methodology for respondent selection, as described below.

Korea

The petition names two companies as producers and/or exporters in Korea of bottom mount refrigerators: Samsung Electronics Co., Ltd. ("Samsung") and LG Electronics, Inc. ("LG"). The petition identifies these two companies as accounting for virtually all of the imports of bottom mount refrigerators from Korea. Moreover, we know of no further exporters or producers of the subject merchandise because, as noted above, the CBP data does not provide for the isolation of such sales from the general "refrigerator-freezer" or "household refrigerator" basket HTSUS categories. Accordingly, the Department is selecting Samsung and LG as mandatory respondents in this investigation pursuant to section 777A(c)(1) of the Act. We will consider comments from interested parties on this respondent selection. Parties wishing to comment must do so within five days of the publication of this notice in the **Federal Register**.

Mexico

The CBP data is not useable for respondent selection purposes for the reason stated above. The petition names four Mexican producers/exporters of the subject merchandise. Due to limited resources, it may not be practicable to make individual weighted-average dumping margin determinations for each of them. The Department, therefore, will request quantity and value information from the exporters and producers of bottom mount refrigerators that are identified in the petition. In the event the Department decides to limit the number of mandatory respondents, the quantity and value data received from Mexican exporters and producers will be used as the basis to select the mandatory respondents.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the petitions and amendments thereto have been provided to the representatives of the Governments of Korea and Mexico. To the extent practicable, we will attempt to provide a copy of the public version of the petitions to each exporter named in the petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the petition was filed, whether there is a reasonable indication that imports of bottom mount refrigerators from Korea and Mexico materially injure, or threaten material injury to, a U.S. industry. A negative ITC determination with respect to any country would result in the termination of the investigation with respect to that country; see section 703(a)(1) of the Act. Otherwise, these investigations will proceed according to statutory and regulatory time limits.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. *See* section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any AD/CVD proceedings initiated on or after March 14, 2011. *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (*Interim Final Rule*) amending 19 CFR 351.303(g)(1) and (2). The formats for the revised certifications are provided at the end of the *Interim Final Rule.* The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting party does not comply with the revised certification requirements.

This notice is issued and published pursuant to section 777(i) of the Act and 19 CFR 351.203(c).

Dated: April 19, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix I

Scope of the Investigations

The products covered by the investigations are all bottom mount combination refrigerator-freezers and certain assemblies thereof from Korea and Mexico. For purposes of the investigations, 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;
- The 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 the upper-most interior storage compartment(s).

For purposes of the investigations, a refrigerator compartment is capable of

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

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 investigations 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 these investigations 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.

[FR Doc. 2011–10048 Filed 4–25–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Completion of Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Completion of Panel Review of the final remand determination made by the United States International Trade Commission, in the matter of Light-Walled Rectangular Pipe and Tube from Mexico, Secretariat File No. USA–MEX–2008–1904–04.

SUMMARY: Pursuant to the Order of the Binational Panel dated March 10, 2011, affirming the final remand determination described above, the panel review was completed on April 21, 2011.

FOR FURTHER INFORMATION CONTACT: Valerie Dees, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: On March 10, 2011, the Binational Panel issued an order, which affirmed the final remand determination of the United States International Trade Commission concerning Light-Walled Rectangular Pipe and Tube from Mexico. The Secretariat was instructed to issue a Notice of Completion of Panel Review on the 31st day following the issuance of the Notice of Final Panel Action, if no request for an Extraordinary Challenge Committee was filed. No such request was filed. Therefore, on the basis of the Panel Order and Rule 80 of the *Article 1904 Panel Rules,* the Panel Review was completed and the panelists were discharged from their duties effective April 21, 2011.

Dated: April 21, 2011.

Valerie Dees,

United States Secretary, NAFTA Secretariat.

[FR Doc. 2011–10005 Filed 4–25–11; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–913]

New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Results of Countervailing Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) has conducted an administrative review of Hebei Starbright Tire Co., Ltd. (Starbright) under the countervailing duty order on certain new pneumatic off-the-road tires (OTR Tires) from the People's Republic of China (PRC) for the period December 17, 2007, through December 31, 2008. Following the preliminary results, we received comments from Starbright, Titan Tire Corporation (Titan), the petitioner in the original investigation, and Bridgestone Americas, Inc. and Bridgestone Americas Tire Operations, LLC (collectively Bridgestone), a domestic interested party in the original investigation. Based on our analysis of the comments, we have determined that no changes should be made in these final results. We determine that subsidies are being provided to Starbright for the production and export of OTR Tires from the PRC. The subsidy rate is set forth in the Final Results of Review section below.

DATES: *Effective Date:* April 26, 2011.

FOR FURTHER INFORMATION CONTACT: Andrew Huston or Jun Jack Zhao, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–4261 and (202) 482–1396, respectively.

SUPPLEMENTARY INFORMATION:

Background

The following events have occurred since the publication of the preliminary results of this review. *See New Pneumatic Off-the-Road Tires From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review,* 75 FR 64268 (October 19, 2010) (*Preliminary Results*). On November 18, 2010, the Department received case briefs from Starbright and Titan. On November 23, 2010, the Department received rebuttal briefs from Starbright, Titan and Bridgestone.

Period of Review

The period of review (POR) for which we are measuring subsidies is December 17, 2007, through December 31, 2008. Since there are only 15 days of 2007 entries covered in the review, the Department preliminarily decided to calculate a single rate for subsidies received in calendar year 2008, and apply this rate to entries made from December 17, 2007, through December 31, 2007, in addition to all of 2008, for assessment purposes. *See Preliminary Results,* 75 FR at 64271. Since we did not receive any comments on this approach, we are not changing it in these final results.

Scope of the Order

The products covered by the scope of the order are new pneumatic tires designed for off-the-road (OTR) and off-highway use, subject to exceptions identified below. Certain OTR tires are generally designed, manufactured and offered for sale for use on off-road or off-highway surfaces, including but not limited to, agricultural fields, forests, construction sites, factory and warehouse interiors, airport tarmacs, separate-rate status application and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for consideration for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents. As noted in the "Respondent Selection" section above, the Department requires that respondents submit a response to both the quantity and value questionnaire and the separate rate application by the respective deadlines in order to receive consideration for separate-rate status.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Policy Bulletin states:

> {W}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.

See Policy Bulletin at 6 (emphasis added).

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public versions of the Petition have been provided to the representatives of the Government of the PRC. Because of the large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version to the Government of the PRC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, no later than May 16, 2011, whether there is a reasonable indication that imports of steel wheels from the PRC are materially injuring, or threatening material injury to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634. Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[44] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any antidumping duty or countervailing duty proceedings initiated on or after March 14, 2011.[45] The formats for the revised certifications are provided at the end of the *Interim Final Rule.* The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting party does not comply with the revised certification requirements.

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

Dated: April 19, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix I

Scope of the Investigation

The products covered by this investigation are steel wheels with a wheel diameter of 18 to 24.5 inches. Rims and discs for such wheels are included, whether imported as an assembly or separately. These products are used with both tubed and tubeless tires. Steel wheels, whether or not attached to tires or axles, are included. However, if the steel wheels are imported as an assembly attached to tires or axles, the tire or axle is not covered by the scope. The scope includes steel wheels, discs, and rims of carbon and/or alloy composition and clad wheels, discs, and rims when carbon or alloy steel represents more than fifty percent of the product by weight. The scope includes wheels, rims, and discs, whether coated or uncoated, regardless of the type of coating.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States ("HTSUS"): 8708.70.05.00, 8708.70.25.00, 8708.70.45.30, and 8708.70.60.30. These HTSUS numbers are provided for convenience and customs purposes only; the written description of the scope is dispositive.

[FR Doc. 2011–10076 Filed 4–25–11; 8:45 am]

BILLING CODE 3510–DS–P

[44] *See* section 782(b) of the Act.

[45] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) ("*Interim Final Rule*") amending 19 CFR 351.303(g)(1) and (2).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–866]

Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea: Initiation of Countervailing Duty Investigation

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

DATES: *Effective Date:* April 26, 2011.

FOR FURTHER INFORMATION CONTACT: Justin Neuman or Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–0486 or (202) 482–1391, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On March 30, 2011, the Department of Commerce (the Department) received a countervailing duty (CVD) petition concerning imports of bottom mount combination refrigerator-freezers (bottom mount refrigerators) from the Republic of Korea (Korea) filed in proper form by Whirlpool Corporation (the petitioner), a domestic producer of bottom mount refrigerators. *See* "Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea and Mexico: Antidumping and Countervailing Duty Petitions on Behalf of Whirlpool Corporation," dated March 30, 2011 (Korea CVD Petition). On April 5, 6, 12, and 14, 2011, the Department issued additional requests for information and clarification of certain areas of the Korea CVD Petition. Based on the Department's requests, the petitioner timely filed additional information pertaining to the Korea CVD Petition on April 11, 14, and 18, 2011.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended, (the Act), the petitioner alleges that producers/exporters of bottom mount refrigerators from Korea received countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that imports from these producers/exporters materially injure, or threaten material injury to, an industry in the United States.

The Department finds that the petitioner has filed this CVD petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and the petitioner has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department to initiate (*see* "Determination of Industry Support for the CVD Petition," below).

Period of Investigation

The period of investigation (POI) is calendar year 2010, *i.e.,* January 1, 2010, through December 31, 2010. *See* 19 CFR 351.204(b)(2).

Scope of Investigation

The products covered by this investigation are bottom mount refrigerators from Korea. For a full description of the scope of this investigation, please see the "Scope of Investigation" Appendix to this notice.

Comments on Scope of Investigation

During our review of the Korea CVD Petition, we discussed the scope with the petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by May 9, 2011, twenty calendar days from the signature date of this notice. All comments must be filed on the records of the Korea and Mexico antidumping duty investigations as well as the Korea countervailing duty investigation. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department held consultations in Washington, DC with the Government of Korea (GOK) with respect to the Korea CVD Petition on April 13, 2011. *See* Memorandum to the File, "Consultations With the Government of Korea Regarding the Countervailing Duty Petition on Bottom Mount Combination Refrigerator-Freezers From Korea," dated April 14, 2011, a public document on file in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

Determination of Industry Support for the Petition

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

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that bottom mount refrigerators constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* Countervailing Duty Investigation Initiation Checklist: Bottom Mount Combination Refrigerator-Freezers from Korea (Korea CVD Initiation Checklist) at Attachment II, "Analysis of Industry Support for the Petitions Covering Bottom Mount Combination Refrigerator-Freezers," on file in the CRU.

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the petition with reference to the domestic like product as defined in the "Scope of Investigation" section above. To establish industry support, the petitioner provided its production volume of the domestic like product in 2010, and compared it to the estimated total production of the domestic like product for the entire domestic industry. *See* Volume I of the Korea CVD Petition, at 8–11, Volume 2A of the petition, at Exhibits 4 and 5, and Supplement to the AD/CVD petitions, dated April 11, 2011 at 2–4 and Exhibits S–1, S–2, and S–3. The petitioner estimated 2010 production of the domestic like product by non-petitioning companies based on its knowledge of its competitors and their production capacity. We have relied upon data the petitioner provided for purposes of measuring industry support. For further discussion, *see* Korea CVD Initiation Checklist, at Attachment II.

Our review of the data provided in the petition, supplemental submissions, and other information readily available to the Department indicates that the petitioner has established industry support. First, the petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling). *See* section 702(c)(4)(D) of the Act and Korea CVD Initiation Checklist, at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the petition account for at least 25 percent of the total production of the domestic like product. *See* Korea CVD Initiation Checklist, at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See id.*

The Department finds that the petitioner filed the petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the countervailing duty investigation that it is requesting the Department initiate. *See id.*

Injury Test

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

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threatening to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

The petitioner contends that the industry's injured condition is illustrated by reduced market share, reduced shipments, underselling and price depression or suppression, decline in financial performance, lost sales and revenue, and increase in the volume of imports and import penetration. *See* Volume I of the Korea CVD Petition, at 114–138, Volume 2A of the petition, at Exhibit 6, Volume 2B of the petition, at Exhibits 35 and 38–42, and Supplement to the AD/CVD petitions, at 5–10 and Exhibits S–1, S–2, S–4, and S–5. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* Korea CVD Initiation Checklist at Attachment III, "Analysis of Allegations and Evidence of Material Injury and Causation for the Petitions Covering Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea and Mexico."

Initiation of Countervailing Duty Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner supporting the allegations.

The Department has examined the countervailing duty petition on bottom mount refrigerators from Korea and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether Korean producers/exporters of bottom mount refrigerators receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see* Korea CVD Initiation Checklist.

We are including in our investigation the following programs alleged in the Korea CVD Petition to provide countervailable subsidies to producers/exporters of the subject merchandise:

1. Korean Export-Import Bank (KEXIM) Subsidy Programs
   a. KEXIM Short-Term Export Credit
   b. KEXIM Export Factoring
   c. KEXIM Export Loan Guarantees
   d. KEXIM Trade Bill Rediscounting Program
2. Korea Development Bank (KDB) and Industrial Bank of Korea (IBK) Short-Term Discounted Loans for Export Receivables
3. Korea Trade Insurance Corporation—Export Insurance and Export Credit Guarantees
   a. Short-Term Export Insurance
   b. Export Credit Guarantees
4. Production Facilities Subsidies: Gwangju Metropolitan City Programs
   a. Tax Reductions/Tax Exemptions
   b. Relocation Grants
   c. Facilities Grants
   d. Employment Grants
   e. Training Grants
   f. Consulting Grants
   g. Preferential Financing for Business Restructuring
   h. Interest Grants for the Stabilization of Management Costs
   i. "Special Support" for Large Corporate Investors
   j. Research and Development and Other Technical Support Services
5. Production Facilities Subsidies: Changwon City Subsidy Programs
   a. Relocation Grants
   b. Employment Grants
   c. Training Grants
   d. Facilities Grants
   e. Grant for "Moving Metropolitan Area-Base Company to Changwon"
   f. Preferential Financing for Land Purchase
   g. Tax Reductions and Exemptions
   h. Financing for the Stabilization of Business Activities
   i. Special Support for Large Companies
6. Gyeongsangnam-do Province and Korea Energy Management Corporation Energy Savings Subsidies
7. Government of Korea Facilities Investment Support: Article 26 of the Restriction of Special Taxation Act (RSTA)
8. Government of Korea Targeted Subsidies
   a. Research, Supply, or Workforce Development Investment Tax Deductions for "New Growth Engines" Under RSTA Art. 10(1)(1)
   b. Research, Supply, or Workforce Development Expense Tax

Deductions for "Core Technologies" Under RSTA Art. 10(1)(2)
c. RSTA Art. 25(2) Tax Deductions for Investments in Energy Economizing Facilities
d. Targeted Facilities Subsidies through Korea Finance Corporation (KoFC), KDB, and IBK "New Growth Engines Industry Fund"
e. Government of Korea Green Fund Subsidies

For a description of each of these programs and a full discussion of the Department's decision to initiate an investigation of these programs, see Korea CVD Initiation Checklist.

We are not including in our investigation the following program alleged to benefit producers/exporters of the subject merchandise in Korea:

1. Changwon City Provision of Waste Heat Electricity

For further information explaining why the Department is not initiating an investigation of this program, *see CVD Initiation Checklist.*

Respondent Selection

Although the Department normally relies on import data from CBP to select respondents in countervailing duty investigations, the Harmonized Tariff Schedule of the United States (HTSUS) categories under which bottom mount refrigerators may be entered are basket categories which include many other types of refrigerators and freezers. Therefore, the CBP data cannot be isolated to identify imports of subject merchandise during the POI. Accordingly, the Department must rely on an alternate methodology for respondent selection.

The petition names two companies as producers and/or exporters in Korea of bottom mount refrigerators: Samsung Electronics Co., Ltd. (Samsung) and LG Electronics, Inc. (LG). The petition identifies these two companies as accounting for virtually all of the imports of bottom mount refrigerators from Korea. Moreover, we know of no further exporters or producers of the subject merchandise because, as noted above, the CBP data does not provide for the isolation of such sales from the general "refrigerator-freezer" or "household refrigerator" basket HTSUS categories. Accordingly, the Department is selecting Samsung and LG as mandatory respondents in this investigation pursuant to section 777A(e)(1) of the Act. We will consider comments from interested parties on this respondent selection. Parties wishing to comment must do so within five days of the publication of this notice in the **Federal Register**.

Distribution of Copies of the CVD Petition

In accordance with section 702(b)(4)(A)(i) of the Act, copies of the public versions of the Korea CVD Petition and amendments thereto have been provided to the GOK. To the extent practicable, we will attempt to provide a copy of the public version of the Korea CVD Petition to each exporter named in the petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

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

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the petition was filed, whether there is a reasonable indication that imports of allegedly subsidized bottom mount refrigerators from Korea materially injure, or threaten material injury to, a U.S. industry. *See* section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; *see* section 703(a)(1) of the Act. Otherwise, the investigation will proceed according to statutory and regulatory time limits.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures* (73 FR 3634). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. *See* section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any AD/CVD proceedings initiated on or after March 14, 2011. *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule, 76 FR 7491* (February 10, 2011) (*Interim Final Rule*) amending 19 CFR 351.303(g)(1) and (2). The formats for the revised certifications are provided at the end of the *Interim Final Rule.* The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting party does not comply with the revised certification requirements.

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

Dated: April 19, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix

Scope of the 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;
- The 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 the 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,

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

and 8418.10.0040 of the Harmonized Tariff System of the United States (HTSUS). Products subject to the 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.

[FR Doc. 2011–10050 Filed 4–25–11; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–974]

Certain Steel Wheels From the People's Republic of China: Initiation of Countervailing Duty Investigation

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

DATES: *Effective Date:* April 26, 2011.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson or Eric B. Greynolds, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–4793 and (202) 482–6071, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On March 30, 2011, the Department of Commerce (the Department) received a countervailing duty (CVD) petition concerning imports of certain steel wheels (steel wheels) from the People's Republic of China (the PRC) filed in proper form by Accuride Corporation (Accuride) and Hayes Lemmerz International, Inc. (collectively, Petitioners).[1]

On April 6, 2011, the Department issued supplemental questions to Petitioners regarding certain issues in the Petition.[2] Petitioners responded to the questions with supplemental responses on April 11, 2011.[3] On April 12, 2011, the Department requested additional information on certain issues.[4] On April 14, 2011, Petitioners provided a response to the Department's requests.[5] On April 14, 2011, the Department requested further clarification with respect to the Petition, which Petitioners submitted on April 15, 2011.[6] On April 18, 2011, the Department further clarified the scope of the Petition with Petitioners.[7]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), Petitioners allege that producers/exporters of steel wheels from the PRC received countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that imports from these producers/exporters materially injure, and threaten further material injury to, an industry in the United States.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because Petitioners are interested parties, as defined in section 771(9)(C) of the Act, and they have demonstrated sufficient industry support with respect to the investigation that they are requesting the Department to initiate (*see* "Determination of Industry Support for the Petition" below). The Department also notes that, pursuant to section 702(b)(1) of the Act, the Petition is accompanied by information reasonably available to Petitioners supporting their allegations.

Period of Investigation

The proposed period of investigation is January 1, 2010, through December 31, 2010.

Scope of Investigation

The products covered by this investigation are steel wheels from the PRC. For a full description of the scope of the investigation, *see* "Scope of the Investigation," in Appendix I of this notice.

Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with Petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final rule,* 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages interested parties to submit such comments by Monday, May 9, 2011, twenty calendar days from the signature date of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, on March 30, 2011, the Department invited representatives of the Government of the PRC (the GOC) for consultations with respect to the CVD petition. On April 14, 2011, the Department held consultations with representatives of the GOC via a conference call. *See* Memorandum on Consultations with Officials from the Government of the People's Republic of China on the Countervailing Duty Petitions regarding Steel Wheels and Galvanized Steel Wire (April 15, 2011).

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in

[1] *See* Petition for the Imposition of Countervailing Duties (Petition), filed on March 30, 2011. A public version of the Petition and all other public documents and public versions are available on the public file in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

[2] *See* April 6, 2011, Petition for the Imposition of Countervailing Duties on Steel Wheels from the People's Republic of China: Supplemental Questions, and April 6, 2011, Petition for the Imposition of Antidumping Duties on Steel Wheels from the People's Republic of China: Supplemental Questions.

[3] *See* Supplement to the AD/CVD Petitions dated April 11, 2011 (First Supplement to the AD/CVD Petitions).

[4] *See* April 12, 2011, Memorandum to the File, regarding "Phone Conference with and Request for Further Information from Petitioners."

[5] *See* Supplement to the AD/CVD Petitions dated April 14, 2011 (Second Supplement to the AD/CVD Petitions).

[6] *See* Supplement to the AD/CVD Petitions dated April 15, 2011 (Third Supplement to the AD/CVD Petitions).

[7] *See* April 18, 2011, Memorandum to the File, regarding "Petitions for the Imposition of Antidumping and Countervailing Duties on Steel Wheels from the People's Republic of China—Clarification of Scope Language."

APPENDIX B

LIST OF CONFERENCE WITNESSES

CALENDAR OF PUBLIC PRELIMINARY CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's preliminary conference:

Subject:	Bottom Mount Combination Refrigerator-Freezers from Korea and Mexico
Inv. Nos.:	701-TA-477 and 731-TA-1180-1181 (Preliminary)
Date and Time:	April 20, 2011 - 1:00 p.m.

Sessions were held in connection with these preliminary investigations in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, D.C.

OPENING REMARKS:

Petitioner (**John D. Greenwald**, Cassidy Levy Kent (USA) LLP)
Respondents (**Richard O. Cunningham**, Steptoe & Johnson LLP)

In Support of the Imposition of
Antidumping and Countervailing Duty Orders:

Cassidy Levy Kent (USA) LLP
Washington, D.C.
on behalf of

Whirlpool Corporation

Marc Bitzer, President, Whirlpool North America

Andrew Batson, Senior Director of Sales Operations, North America Region

Justin Reinke, Category Director – Refrigeration, North America Region

B. Brandon Bullock III, Director of Strategy, North American Refrigeration

In Support of the Imposition of
<u>Antidumping and Countervailing Duty Orders (continued):</u>

Thomas A. Schwyn, Vice President and Associate General Counsel, North America Region

Adrian Estrada Montemayor, Director of Legal Services, North America Region

Dr. Richard L. Boyce, Economic Consultant, Econometrica International, Inc.

John D. Greenwald)
) – OF COUNSEL
Jack A. Levy)

In Opposition to the Imposition of
<u>Antidumping and Countervailing Duty Orders:</u>

Akin Gump Strauss Hauer & Feld LLP
Washington, D.C.
<u>on behalf of</u>

Samsung Electronics America

James Politeski, Senior Vice President, Home Appliance Sales and Marketing, Samsung Electronics America

Kurt Jovais, Director of Marketing, Home Appliances, Samsung Electronics America

Eugene Seagriff, Marketing Manager, Refrigerators, Samsung Electronics America

I.S. Choi, Business Manager, Refrigerators, Samsung Electronics America

Warren E. Connelly)
) – OF COUNSEL
Natalya Dobrowolsky)

In Opposition to the Imposition of
<u>Antidumping and Countervailing Duty Orders (continued):</u>

Jochum Shore & Trossevin, PC
Washington, D.C.
<u>on behalf of</u>

The Home Depot, Inc.

Robert Baird, Merchandising Vice President,
Appliances & Kitchens, The Home Depot, Inc.

Marguerite Trossevin)
) – OF COUNSEL
James J. Jochum)

Steptoe & Johnson LLP
Washington, D.C.
<u>on behalf of</u>

LG Electronics U.S.A., Inc. ("LG USA")
LG Electronics Inc. ("LGE")
LG Electronics Monterrey Mexico, S.A. de C.V. ("LG Mexico")

John Herring, Vice President of Sales, Home
Appliance National Accounts, LGE

John I. Taylor, Vice President of Government
Relations & Communications, LGE

Kibeom Kim, Senior Manager, International Group, LGE

Jae Woo Jeong, Assistant Manager, International
Trade Group, LGE

Young Noh, Products Manager, Digital Appliances, LGE

Allen Kim, Product Manager, Home Appliances, LGE

In Opposition to the Imposition of
<u>Antidumping and Countervailing Duty Orders (continued):</u>

Daniel W. Klett, Economic Consultant, Capital Trade, Inc.

Richard O. Cunningham)
Thomas J. Trendl) – OF COUNSEL
Susan Louie)

<u>CLOSING REMARKS:</u>

Petitioner (**John D. Greenwald**, Cassidy Levy Kent (USA) LLP;)
Jack A. Levy, Cassidy Levy Kent (USA) LLP); *and*
Dr. Richard L. Boyce, Econometrica International, Inc.)
Respondents (**Warren E. Connelly**, Akin Gump Strauss Hauer & Feld LLP)

APPENDIX C

SUMMARY DATA

Table C-1
Bottom mount refrigerators: Summary data concerning the U.S. market, 2008-10

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Table C-2
Top mount refrigerators: Summary data concerning the U.S. market, 2008-10

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Table C-3
Side-by-side refrigerators: Summary data concerning the U.S. market, 2008-10

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Table C-4
Total refrigerators: Summary data concerning the U.S. market, 2008-10

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Table C-5
Bottom mount refrigerators: Summary data concerning the U.S. market (excluding *), 2008-10**

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