

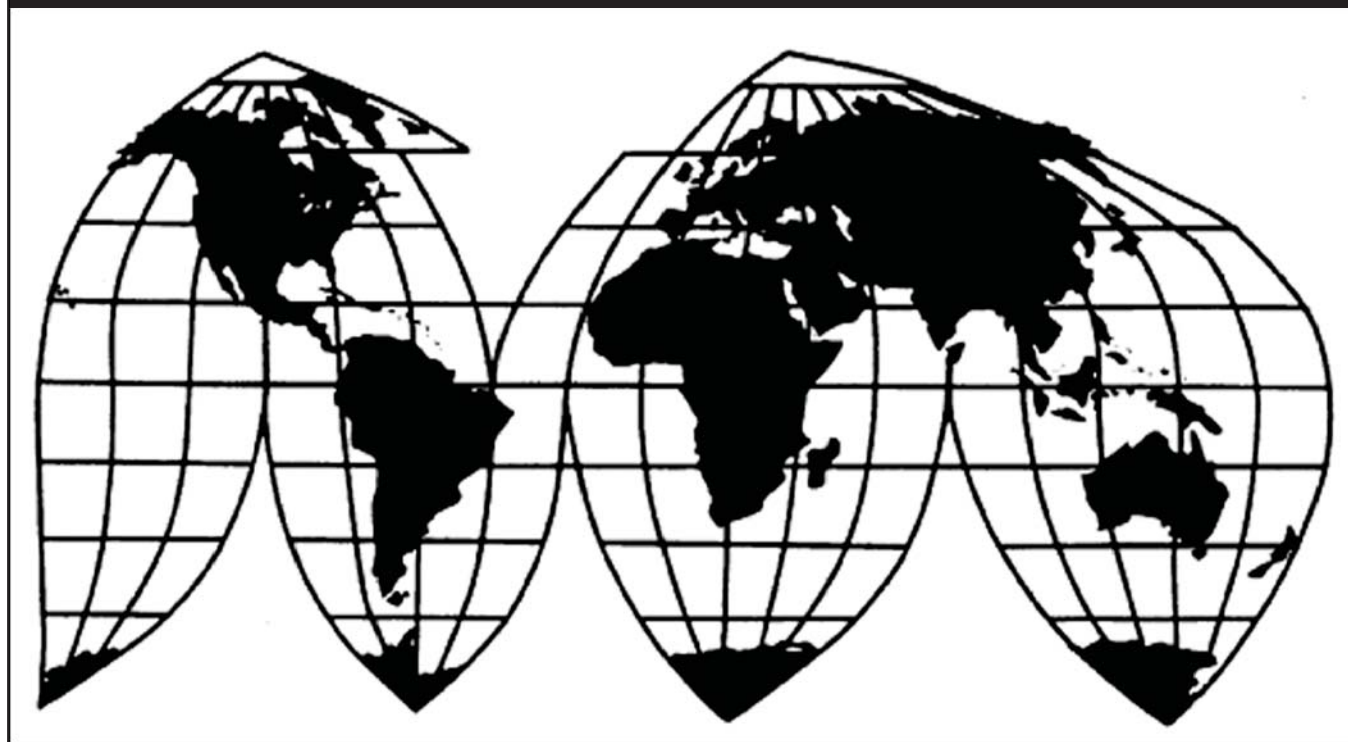
Bottom Mount Combination Refrigerator-Freezers from Korea and Mexico

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

Publication 4318

May 2012

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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CONTENTS

	<i>Page</i>
Determinations	1
Views of the Commission	3
Part I: Introduction	I-1
Background.....	I-1
Organization of report.....	I-1
U.S. market summary.....	I-2
Summary data and data sources.....	I-3
Previous and related investigations.....	I-3
Nature and extent of alleged sales at LTFV.....	I-4
Nature of alleged countervailable subsidies.....	I-5
The subject product.....	I-5
Commerce’s scope.....	I-5
Tariff treatment.....	I-6
Physical characteristics and uses.....	I-7
Manufacturing process.....	I-11
Product features.....	I-12
Domestic like product issues.....	I-14
Top mount refrigerators vs. bottom mount refrigerators.....	I-15
Side by Side refrigerators vs. bottom mount refrigerators.....	I-17
Part II: Conditions of competition in the U.S. market	II-1
U.S. market segments.....	II-1
Channels of distribution.....	II-3
Supply and demand considerations.....	II-4
U.S. supply.....	II-4
U.S. demand.....	II-7
Substitutability issues.....	II-12
Lead times.....	II-12
Factors affecting purchasing decisions.....	II-13
Comparisons of domestic products, subject imports, and nonsubject imports.....	II-17
Elasticity estimates.....	II-20
U.S. supply elasticity.....	II-20
U.S. demand elasticity.....	II-20
Substitution elasticity.....	II-21
Part III: U.S. producers’ production, shipments, and employment	III-1
U.S. producers.....	III-1
U.S. capacity, production, and capacity utilization.....	III-2
U.S. producers’ U.S. shipments and export shipments.....	III-3
U.S. producers’ imports and purchases of imports.....	III-3
U.S. producers’ inventories.....	III-3
U.S. employment, wages, and productivity.....	III-4

CONTENTS

	<i>Page</i>
Part IV: U.S. imports, apparent consumption, and market shares.	IV-1
U.S. importers.	IV-1
U.S. imports.	IV-2
Cumulation considerations.	IV-3
Negligibility.	IV-3
Critical circumstances.	IV-4
Apparent U.S. consumption and market shares.	IV-5
Ratio of imports to U.S. production.	IV-6
Part V: Pricing and related information.	V-1
Factors affecting prices.	V-1
Raw material costs.	V-1
U.S. inland transportation costs.	V-2
Transportation costs to the U.S. market.	V-2
Pricing practices.	V-2
Pricing methods.	V-2
Sales terms.	V-5
Direct and indirect discounts.	V-5
Price leaders.	V-9
Price data.	V-9
Price data and discounts.	V-11
Price trends and comparisons.	V-12
Price comparisons.	V-17
Other data.	V-18
Lost sales and lost revenues.	V-18
Part VI: Financial condition of U.S. producers.	VI-1
Background.	VI-1
Operations on bottom mount refrigerators.	VI-1
Capital expenditures and research and development expenses.	VI-3
Assets and return on investment.	VI-3
Capital and investment.	VI-3
Part VII: Threat considerations.	VII-1
The industry in Korea.	VII-2
The industry in Mexico.	VII-4
U.S. importers' inventories.	VII-7
U.S. importers' current orders.	VII-7
Antidumping and countervailing duty orders in third-country markets.	VII-7
Information on producers in nonsubject countries.	VII-7

Appendixes

A. <i>Federal Register</i> notices.	A-1
B. List of hearing witnesses.	B-1
C. Summary data.	C-1
D. Market studies of french door bottom mount refrigerators.	D-1
E. CPI for major appliances and personal computers.	E-1
F. Other pricing data.	F-1

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

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

BOTTOM MOUNT COMBINATION REFRIGERATOR-FREEZERS FROM KOREA AND MEXICO

DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission (Commission) determines, ²pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. §§ 1671d(b) and 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports of bottom mount combination refrigerator-freezers from Korea, 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 the U.S. Department of Commerce (Commerce) has determined are subsidized by the Government of Korea and sold in the United States at less than fair value (LTFV). The Commission further determines that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, 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 Commerce has determined are sold in the United States at LTFV.

BACKGROUND

The Commission instituted these investigations effective March 30, 2011, following receipt of a petition filed with the Commission and Commerce by Whirlpool Corp., Benton Harbor, MI. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of bottom mount combination refrigerator-freezers from Korea were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. § 1671b(b)) and that imports of bottom mount combination refrigerator-freezers from Korea and Mexico were sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing 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* on November 23, 2011 (76 FR 72440). The hearing was held in Washington, DC, on March 13, 2012, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

² Chairman Deanna Tanner Okun not participating.

VIEWS OF THE COMMISSION

Based on the record in the final phase of these investigations, we find that an industry in the United States is not materially injured or threatened with material injury, by reason of imports of bottom mount combination refrigerator-freezers (“bottom mount refrigerators”) from Korea found to have been 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 found to have been sold in the United States at LTFV.^{1 2}

I. BACKGROUND

The petitions in these investigations were filed on March 30, 2011 by Whirlpool Corporation (“Whirlpool”), which accounts for a substantial majority of domestic production of bottom mount refrigerators. Respondents that participated in the hearing and filed briefs in these final 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”); foreign producers Electrolux North America, Inc., Electrolux Home Products, Inc., and Electrolux Home Products Corp. N.V. (collectively, “Electrolux”); and purchaser The Home Depot, Inc. (“Home Depot”) (collectively, “respondents”).

The Commission received U.S. producers’ questionnaire responses from four U.S. producers accounting for virtually all U.S. production of bottom mount refrigerators during the period examined.³ It received importers’ questionnaire responses from nine firms, seven of which accounted for the vast majority of subject imports from Korea and Mexico.⁴ 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 States.⁵ The Commission also received foreign producers’ questionnaire responses from six 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.⁶

II. DOMESTIC LIKE PRODUCT

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of subject merchandise, the Commission first defines the “domestic

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

² We also find that the establishment of an industry in the United States is not materially retarded by reason of subject imports.

³ Confidential Staff Report (“CR”) at I-4; Public Staff Report (“PR”) at I-3. The Commission received questionnaire responses from General Electric Co. (“GE”); Haier America Refrigerators Co., Ltd. (“Haier”); Viking Range Corp. (“Viking”); and Whirlpool. Id. 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 I-4 n.3; PR at I-3 n.3.

⁴ CR at IV-1 & n.2; PR at IV-1 & n.2.

⁵ CR at VII-2; PR at VII-2.

⁶ CR at VII-6; PR at VII-4.

like product” and the “industry.”⁷ 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.”⁸ 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.”⁹

The decision regarding the appropriate domestic like product in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.¹⁰ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.¹¹ The Commission looks for clear dividing lines among possible like products and disregards minor variations.¹² Although the Commission must accept Commerce’s determination as to the scope of the imported merchandise that is subsidized or sold at less than fair value,¹³ the Commission determines what domestic product is like the imported articles Commerce has identified.¹⁴

B. Product Description

Commerce has defined the imported merchandise within the scope of the investigations as follows:

⁷ 19 U.S.C. § 1677(4)(A).

⁸ 19 U.S.C. § 1677(4)(A).

⁹ 19 U.S.C. § 1677(10).

¹⁰ See, e.g., Cleo, Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors, including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

¹¹ See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

¹² Nippon, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; 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.”).

¹³ See, e.g., USEC, Inc. v. United States, 34 Fed. Appx. 725, 730 (Fed. Cir. 2002) (“The ITC may not modify the class or kind of imported merchandise examined by Commerce.”); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int’l Trade 1988), aff’d, 865 F.3d 240 (Fed. Cir.), cert. denied, 492 U.S. 919 (1989).

¹⁴ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Cleo, 501 F.3d at 1298 n.1 (“Commerce’s {scope} finding does not control the Commission’s {like product} determination.”); Torrington, 747 F. Supp. at 748-52 (affirming the Commission’s determination defining six like products in investigations in which Commerce found five classes or kinds).

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; 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 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 (HTS). 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.¹⁵

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

¹⁵ CR at I-6-7; PR at I-56; see also 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).

variety of configurations and capacities with different combinations of features.¹⁶ In terms of configuration, bottom mount refrigerators may be two-door, three-door French door, or four-door French door with an additional drawer between the freezer and refrigerator compartments.¹⁷ Bottom mount refrigerators may be counter depth or regular depth and come in widths of 30, 33, or 36 inches.¹⁸ Bottom mount refrigerators may be characterized as “large” or “jumbo” capacity, with an interior measuring 27.5 cubic feet or more, or regular capacity, with an interior measuring 27.4 cubic feet or less.¹⁹ 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 refrigerator or a freezer), premium shelving, “Slide N Go” removable shelving, Energy Star rated energy efficiency, and LCD interfaces.²⁰

C. Parties’ Arguments

Petitioner argues that the Commission should, as detailed in the preliminary phase of the investigations, define a single domestic like product that is coextensive with the scope of the investigations, encompassing bottom mount refrigerators.²¹ LG and Samsung do not contest the Commission’s domestic like product definition from the preliminary phase of the investigations.²² Electrolux argues that the Commission should define two domestic like products corresponding to two-door “conventional” bottom mount refrigerators and three- and four-door “French door” bottom mount refrigerators.²³

D. Analysis

1. Whether to Expand the Domestic Like Product Definition Beyond the Scope to Include Top Mount and Side-by-Side Refrigerators

The Commission must accept Commerce’s determination as to the scope of the imported merchandise alleged to be subsidized or sold at LTFV,²⁴ but the Commission may, where appropriate,

¹⁶ CR at I-10; PR at I-9.

¹⁷ CR at I-10-11; PR at I-9-10.

¹⁸ CR at I-10; PR at I-9.

¹⁹ See CR at I-16; PR at I-13; Hearing Tr. at 29 (Bitzer).

²⁰ CR at I-15-18; PR at I-12-14; Petition at 119.

²¹ Petition at 14; Petitioner’s Postconference Brief at 7.

²² See Samsung’s Prehearing Brief at 3.

²³ See Electrolux’s Prehearing Brief at 2-12; Electrolux’s Posthearing Brief at 2-9; Hearing Tr. at 192-95 (Jaffe).

²⁴ 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.”).

include domestic articles in the domestic like product in addition to those described in the scope.²⁵ 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.²⁶

Although no party has argued that the Commission should expand the domestic like product definition beyond the scope, in the preliminary phase of the investigations 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 factors for defining the domestic like product and collected trade and financial data on top mount refrigerators and side-by-side refrigerators.²⁷ 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.²⁸

For the reasons stated in our preliminary determinations and absent any new or contrary information on the current record,²⁹ we again find that the differences between bottom mount, top mount, and side-by-side refrigerators support limiting the domestic like product definition to bottom mount refrigerators. Moreover, Samsung and Whirlpool agree with the Commission's definition of the domestic like product from the preliminary phase of the investigations, and LG has raised no objection to it. Accordingly, we define a single domestic like product encompassing all bottom mount refrigerators within the scope of the investigations.³⁰

²⁵ 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.").

²⁶ 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).

²⁷ Bottom Mount Combination Refrigerator-Freezers from Korea and Mexico, Inv. Nos. 701-TA-477 and 731-TA-1180-1181 (Preliminary), USITC Pub. 4232 (May 2011) ("Preliminary Determination") at 6.

²⁸ See Preliminary Determination at 9.

²⁹ See CR at I-20-26; PR at I-15-19.

³⁰ Commissioner Shara L. Aranoff finds that certain record evidence supports an expansion of the domestic like product to include top mount and side-by-side models. Nevertheless, she notes that no party advocated such an outcome, despite the Commission's expressed interest in exploring that possibility. Therefore, she joins her colleagues in their conclusion and discussion of the evidence of record.

2. Whether to Define Two Domestic Like Products Corresponding to Conventional Bottom Mount Refrigerators and French Door Bottom Mount Refrigerators

Electrolux argues that the Commission should define two domestic like products corresponding to conventional and French door bottom mount refrigerators, yet failed to respond to the Commission's request for comments on the draft questionnaires, much less timely request the collection of separate data for conventional and French door bottom mount refrigerators.³¹ Because such data were not collected, we cannot as a practical matter conduct a separate material injury analysis for domestic industries corresponding to conventional and bottom mount refrigerators, respectively.

Electrolux's failure to file comments on the draft questionnaires alerting the Commission to its domestic like product argument also prevented the Commission from requesting the views of producers and importers on the similarities and differences between conventional and French door bottom mount refrigerators in terms of the six like product factors. Consequently, the record contains limited information on such similarities and differences. Based on the following analysis of this limited available information, we reject Electrolux's argument that conventional and French door bottom mount refrigerators constitute separate domestic like products.

Physical characteristics and uses

The principal physical difference between conventional and French door bottom mount refrigerators is that the former have two doors and the latter have three or more doors.³² In addition, in door ice and water dispensers are available only on French door bottom mount refrigerators, although many French door bottom mount refrigerators are sold without such dispensers.³³ Conventional and French door bottom mount refrigerators are otherwise similar in terms of the location of the freezer at the bottom of the unit, thermodynamics, ergonomics, and energy consumption.³⁴ They also overlap substantially in terms of capacity, with conventional bottom mount refrigerators available in capacities of

³¹ When promulgating rule 207.20(b) giving the parties an opportunity to make written comments on draft questionnaires in the final phase investigation, the Commission emphasized any arguments that would require data collection should be made no later than at that time. See Notice of Final Rulemaking, 61 Fed. Reg. 37818, 37826 (July 22, 1996) (explaining the promulgation of rule 207.20(b))(emphasis added):

The Commission expects that the parties will use the comment process to make data collection requests to the Commission for the final phase of an investigation. At the time the draft questionnaire will be circulated, the parties should be able to identify the data they desire the Commission to generate during the final phase of the investigation. This is particularly true with respect to issues such as domestic like product and cumulation on which the parties typically will have asserted detailed arguments, and will have obtained considerable data, during the preliminary phase of the investigation. Consequently, parties should make data collection requests in their questionnaire comments rather than later in the investigation. It is often impracticable to satisfy new data collection requests made during the later stages of a final phase investigation, given the need to collect, verify, and analyze data, release data under APO, and receive comments from the parties concerning data before the record closes.

³² CR at I-11; PR at I-9-10.

³³ Petitioner's Posthearing Brief at III-8.

³⁴ CR at I-10, 15; PR at I-9, 12.

up to 22.4 cubic feet, while French door bottom mount refrigerators are available in capacities from 19.5 to 32 cubic feet.³⁵

Interchangeability

Electrolux argues that conventional bottom mount refrigerators are not interchangeable with French door bottom mount refrigerators because the former do not possess the additional features that enable French door refrigerators to command premium prices.³⁶ However, the pricing data that Electrolux obtained from Whirlpool's website and placed on the record show an overlap between the advertised price range of Whirlpool's conventional bottom mount refrigerators (\$1,149-\$1,649) and the advertised price range of Whirlpool's French door bottom mount refrigerators (\$1,499-\$3,199).^{37 38} It also is noteworthy that the advertised price range for Whirlpool's conventional bottom mount refrigerators was well above the average unit values of U.S. shipments of top mount refrigerators (\$***) and side-by-side refrigerators (\$***) in 2011, suggesting that both conventional and French door bottom mount refrigerators command a premium over other refrigerator types.³⁹ Moreover, Electrolux concedes that conventional bottom mount refrigerators offer the same ergonomic advantages over top mount and side-by-side refrigerators as French door bottom mount refrigerators, in that the entire refrigerator compartment is at eye level.⁴⁰ These factors all suggest that the degree of interchangeability between conventional and French door bottom mount refrigerators is greater than the degree of interchangeability between bottom mount refrigerators and top mount or side-by-side refrigerators.

Common manufacturing facilities, production processes, and production employees

***.⁴¹ Whirlpool ***.⁴²

Channels of distribution

All types of refrigerators are shipped mostly to distributors for sale through retailers.⁴³ Electrolux concedes that the channels of distribution for conventional and French door bottom mount refrigerators are similar.⁴⁴

³⁵ Petitioner's Posthearing Brief at III-9.

³⁶ Electrolux's Prehearing Brief at 11.

³⁷ Electrolux's Prehearing Brief at 7. Information submitted by Whirlpool shows an even greater degree of overlap in terms of minimum advertised prices ("MAPs") from LG, Samsung, Electrolux, GE, and Whirlpool, with the MAPs of conventional bottom mount refrigerators ranging from \$799 to \$2,299 and the MAPs of French door bottom mount refrigerators ranging from \$1,099 to \$3,499. Petitioner's Posthearing Brief at III-10. However, pricing for subject imported bottom mount refrigerators is not relevant to the Commission's like product analysis, which concerns only domestically produced bottom mount refrigerators. MAPs are explained in section V.C below.

³⁸ Whenever possible, we examine the prices at which bottom mount refrigerators are sold by manufacturers to retailer/distributors, although prices to consumers (such as advertised prices) also inform our analysis, as discussed *infra* at Section V.A.

³⁹ CR at I-23, 26; PR at I-17, 19. In 2011, the average unit value net of discounts of sales of Product 1A, a conventional bottom mount refrigerator model, was lower, ranging between \$*** and \$*** per unit, than the average unit value of U.S. shipments of side-by-side refrigerators that year. Compare CR/PR at Table V-20 with id. at Table C-3.

⁴⁰ Electrolux's Prehearing Brief at 11.

⁴¹ CR at I-21, 24; PR at I-16, 19; Petitioner's Posthearing Brief at III-8-9.

⁴² Petitioner's Posthearing Brief at III-9.

⁴³ CR at I-23, 26; PR at I-17-19; CR/PR at Table II-1.

⁴⁴ Electrolux's Prehearing Brief at 11-12.

Customer and producer perceptions

There is evidence that many retailer websites provide separate links for conventional and French door bottom mount refrigerators and that Consumer Reports evaluates conventional and French door bottom mount refrigerators separately.⁴⁵ The record also indicates, however, that all bottom mount refrigerators, including conventional and French door models, are perceived as high end, premium products, and Sub Zero offers only conventional bottom mount refrigerators at prices significantly higher than the most expensive four door bottom mount refrigerators.⁴⁶

Price

As noted above, there is an overlap in the advertised price ranges of Whirlpool's conventional and French door bottom mount refrigerators.

Conclusion

There is limited information on the record concerning the similarities and differences between conventional and French door bottom mount refrigerators because, as noted above, Electrolux failed to file comments on the draft questionnaires requesting that such information be collected. Nevertheless, the information available indicates that conventional and French door bottom mount refrigerators possess more similarities than differences in terms of the Commission's like product factors. Given their overlapping features, capacities, and prices, we find that there is a continuum of bottom mount refrigerator products, including both conventional and French door bottom mount refrigerators, with no clear dividing lines.

Moreover, the limited information on the record precludes us from conducting separate injury analyses with respect to the domestic industries corresponding to conventional and French door bottom mount refrigerators, respectively. For all the foregoing reasons, we reject Electrolux's argument that conventional and French door bottom mount refrigerators constitute separate domestic like products.

III. 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."⁴⁷ 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.⁴⁸

⁴⁵ Electrolux's Prehearing Brief at 12.

⁴⁶ Petitioner's Posthearing Brief at III-9-10.

⁴⁷ 19 U.S.C. § 1677(4)(A).

⁴⁸ CR/PR at Table III-1.

A. Related Parties

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.⁴⁹ Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation. No party has addressed the issue of related parties.

In this final phase of the investigations, *** and *** qualify as related parties because they imported subject merchandise during the period examined.⁵⁰ Based on the following analysis, we find that appropriate circumstances do not exist for excluding either *** or *** from the domestic industry as a related party.

1. ***

*** accounted for an insignificant share of domestic production of bottom mount refrigerators during the period examined, amounting to only *** percent in 2011. *** primary interest was in the importation of subject merchandise rather than domestic production, given that its ratio of imports of subject merchandise to domestic production ranged from *** percent to *** percent during the period examined.⁵¹ ***⁵² *** domestic operations were *** more profitable than those of other domestic producers, although the extent to which *** domestic operations benefitted from its importation of subject merchandise is unclear.⁵³ ⁵⁴ ⁵⁵ The inclusion or exclusion of *** from the domestic industry would have *** on the domestic industry's trade or financial data, however, due to ***.⁵⁶ On balance,

⁴⁹ 19 U.S.C. § 1677(4)(B).

⁵⁰ CR/PR at Table III-5.

⁵¹ Memorandum INV-KK-046 (April 16, 2012) at Table III-5.

⁵² CR at III-4, 7; PR at III-2; Conference Transcript at 84 (Bitzer).

⁵³ CR/PR at Table VI-2.

⁵⁴ 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.

⁵⁵ Consistent with his practice, Commissioner Pinkert does not rely upon the related parties' financial performance as a factor in determining whether there are appropriate circumstances to exclude either of them from the domestic industry, as there has been no showing of a link between their profitability on U.S. operations and importation.

Commissioner Pinkert notes also that he does not join in the Commission's determination that *** is part of the domestic industry. In his view, given that *** ratio of imports of subject merchandise to domestic production ranged from *** percent to *** percent, *** primary interest during the period under examination was in the importation of subject merchandise.

Finally, Commissioner Pinkert finds that exclusion of *** from the domestic industry would have *** on the industry's trade or financial data, due to the ***. Nevertheless, he relies on the data compiled by the Commission that do not include *** as the basis for his finding of no present material injury by reason of subject imports.

⁵⁶ Compare Memorandum INV-KK-046 (April 16, 2012) at Table C-1 with CR/PR at Table C-5. Because the exclusion of *** from the domestic industry would have *** on domestic industry data, we would have reached the same result in these investigations had we determined that appropriate circumstances existed for excluding *** from

we find that appropriate circumstances do not exist for excluding *** from the domestic industry as a related party.^{57 58}

2. ***

*** imported *** from *** Mexico in 2011.⁵⁹ It also purchased small quantities of bottom mount refrigerators from Mexico, including *** units in 2009, *** units in 2010, and *** units in 2011.⁶⁰ ***'s primary interest was in domestic production during the period examined, given that the ratio of its total imports and import purchases to U.S. production was only *** percent in 2009, *** percent in 2010, and *** percent in 2011.⁶¹ Subject imports and import purchases in these quantities could have had no perceptible effect on *** financial performance during the period, and there is no evidence of such an effect.⁶² Because *** accounted for *** percent of reported domestic production during the period examined, its exclusion from the domestic industry would have *** on the domestic industry's trade and financial data.⁶³ Moreover, ***. For all these reasons, we find that appropriate circumstances do not exist for excluding *** from the domestic industry as a related party.

In sum, we define the domestic industry to include all domestic producers of bottom mount refrigerators.

IV. 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

the domestic industry.

⁵⁷ CR/PR at Table III-1. The record indicates that ***. CR at III-4; PR at III-2; ***. Although the record of the preliminary phase of the investigations was inconclusive ***, the record of the final phase of the investigations indicates that ***. For this reason, we reach a different conclusion here than in the preliminary phase of the investigations, when we found that appropriate circumstances existed for excluding *** from the domestic industry as a related party. Confidential Views, Bottom Mount Combination Refrigerator-Freezers from Korea and Mexico, Inv. Nos. 701-477 and 731-TA-1180-1181 (Preliminary), at 12.

⁵⁸ In the exercise of her discretion, Commissioner Aranoff excludes *** from the domestic industry for purposes of her present injury analysis but not for her analysis of threat in the imminent future.

When the Commission determines to exclude a related party from the domestic industry, the practical effect is to exclude information from that producer from the domestic industry dataset evaluated by the Commission. Ordinarily, a determination to exclude a related party has applied to our evaluation of both present material injury and threat. In the current investigations, ***, CR at III-4; PR at III-2; ***, *** in the imminent future (examined in the threat analysis). For that reason, the ratio of ***. On the basis of these facts, Commissioner Aranoff determines, in the exercise of her discretion, to exclude *** from the industry for purposes of present injury but not for purposes of threat.

⁵⁹ CR at III-8; PR at III-3; CR/PR at Table III-5.

⁶⁰ CR/PR at Table III-5.

⁶¹ CR/PR at Table III-5.

⁶² See CR/PR at Table VI-2.

⁶³ CR/PR at Table III-1. ***.

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.⁶⁴ In assessing whether subject imports compete with each other and with the domestic like product, the Commission has generally considered four factors:

- (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.⁶⁵

Although 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.⁶⁶ Only a “reasonable overlap” of competition is required.⁶⁷

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, 2011.⁶⁸ None of the statutory exceptions to cumulation is applicable.

B. Analysis

Based on the record of the final 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 a sufficient degree of substitutability between subject imports from Korea and Mexico, and between subject imports from each source and the domestic like product, to suggest a reasonable overlap of competition. All responding domestic producers reported that subject imports from Korea and Mexico are either “always” or

⁶⁴ 19 U.S.C. § 1677(7)(G)(i).

⁶⁵ 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).

⁶⁶ See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

⁶⁷ 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.”).

⁶⁸ None of the statutory exceptions to cumulation is applicable.

“frequently” used interchangeably with each other and with the domestic like product.⁶⁹ Two responding importers reported that subject imports from Mexico and the domestic like product are “frequently” used interchangeably, three responding importers reported that subject imports from Korea and Mexico are “sometimes” used interchangeably with the domestic like product, and one responding importer reported that subject imports from Korea and Mexico are “never” used interchangeably with the domestic like product.⁷⁰ Three responding importers reported that subject imports from Korea and Mexico are “sometimes” used interchangeably with each other and one reported that they are “never” used interchangeably.⁷¹ A majority of purchasers reported that U.S. bottom mount refrigerators and subject imports from Korea and Mexico were comparable with respect to 16 or 17 of 18 enumerated factors, including direct and indirect discounts, packaging, product consistency, and quality.⁷² The vast majority of purchasers, however, reported that differences other than price were only sometimes or never significant in choosing between and among the domestic like product and subject imports from Korea and Mexico.⁷³ On the other hand, when asked whether differences other than price are ever significant to purchasers in choosing between bottom mount refrigerators produced in Korea, Mexico, and the United States, ***,” while two responding importers reported “always,” one reported “frequently,” and one reported “never” (with respect to subject imports from Korea).⁷⁴ Although purchasers generally ranked subject imports and the domestic like product comparable in terms of quality, three purchasers, including ***, reported that subject imports were superior with respect to other factors such as fit, feel, and finish; innovative features; style; technology; and design.⁷⁵ Nevertheless, 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, subject imports from Korea and Mexico entered the United States through multiple ports of entry dispersed across the country, and domestic producers and importers reported distributing their bottom mount refrigerators throughout the United States.⁷⁶ 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.⁷⁷

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.⁷⁸

⁶⁹ CR/PR at Table II-6.

⁷⁰ CR/PR at Table II-6.

⁷¹ CR/PR at Table II-6.

⁷² CR at II-30; PR at II-17; CR/PR at Table II-5. A majority of responding purchasers reported that subject imports from Korea were comparable to the domestic like product with respect to 16 factors and that subject imports from Mexico were comparable to the domestic like product with respect to 17 factors. Id.

⁷³ CR/PR at Table II-8.

⁷⁴ CR/PR at Table II-4.

⁷⁵ CR/PR at Table II-5 & n.3.

⁷⁶ CR at IV-6; PR at IV-3.

⁷⁷ CR at II-4; PR at IV-3; CR/PR at Table II-1.

⁷⁸ CR at IV-6; PR at IV-3.

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 material injury by reason of subject imports.

V. CONDITIONS OF COMPETITION AND THE BUSINESS CYCLE

The following conditions of competition inform our analysis of whether there is material injury or threat of material injury by reason of subject imports.

A. Demand Conditions

Apparent U.S. consumption for bottom mount refrigerators increased from *** units in 2009 to *** units in 2010 and *** units in 2011, a level *** percent higher than in 2009.⁷⁹ Demand for bottom mount refrigerators increased throughout the period examined because consumers have shown an increasing preference for bottom mount refrigerators over other types of refrigerators. Apparent U.S. consumption of bottom mount refrigerators as a share of apparent U.S. consumption of all refrigerators increased from *** percent in 2009 to *** percent in 2010 and *** percent in 2010.⁸⁰ 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.⁸¹

As already noted, the bottom mount refrigerator market is characterized by a vast array of models featuring different combinations of door configurations, widths, capacities, and features.⁸² Moreover, the complexity of the market has increased over time. Since June 2007, bottom mount refrigerator manufacturers have introduced thin wall insulation technology, which permits higher capacity with no increase in exterior dimensions; LED lighting, Slide ‘n Go shelving, easy open handles, and LCD touch screens with wi-fi applications.⁸³ During the period examined, LG and Samsung introduced seven large capacity bottom mount refrigerator models, utilizing thin wall insulation technology in both three and four door configurations.⁸⁴

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, Sears, ***, ***, and ***.⁸⁵ Four purchasers, ***, accounted for 77.5

⁷⁹ Memorandum INV-KK-046 (April 16, 2012) at Tables IV-8, C-1.

⁸⁰ Compare Memorandum INV-KK-046 (April 16, 2012) at Table C-1 with CR/PR at Table C-4.

⁸¹ CR at II-15-16, 20-21; PR at II-8-9, 11-12; CR/PR at D-3.

⁸² See Hearing Tr. at 28 (Bitzer) (“Indeed, it is actually not unusual for a manufacturer to offer dozens of bottom-mount SKUs in the marketplace.”). An SKU, or stock keeping unit, is a number or code corresponding to a specific model.

⁸³ Conference Tr. at 113-14 (Poltieski); see also CR at I-11, 17-18; PR at II-9-10, 13-14; Hearing Tr. at 172 (Herring).

⁸⁴ See LG’s Hearing Exhibit 3; Hearing Tr. at 170-72 (Herring); CR at I-15-16; PR at I-12-13.

⁸⁵ CR at II-5-6; PR at II-3-4; CR/PR at Table II-1.

percent of apparent U.S. consumption in 2011.⁸⁶ 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.⁸⁷ Nevertheless, we also recognize that retail consumer preferences drive retailers' purchasing decisions.⁸⁸

Consumers select among competing models based on a number of considerations. The parties agree that the model must fit into the available space in the purchaser's kitchen.⁸⁹ Style, design, "fit, finish, and feel," and innovative features are additional considerations, as emphasized by respondents.⁹⁰ Getting the most refrigerator for the price is another consideration, as emphasized by petitioner.⁹¹ Nevertheless, the record indicates that consumers in the market for bottom mount refrigerators are less price sensitive than consumers in the market for other types of refrigerators. Because bottom mount refrigerators are priced substantially higher than top mount or side-by-side refrigerators, they have limited appeal to budget minded consumers.⁹² Moreover, a recent market research study determined that the average household income of French door bottom mount refrigerator purchasers exceeds \$100,000 per year.⁹³ Finally, the record indicates that 55 to 60 percent of bottom mount refrigerators are purchased by consumers who are replacing an existing refrigerator that no longer functions.⁹⁴ These consumers would necessarily have less time to shop for the best price than consumers seeking to upgrade an existing refrigerator that continues to function.⁹⁵

The emphasis that bottom mount refrigerator consumers place on style and design is reflected in evidence that prices for a particular bottom mount refrigerator model tend to decline over time as new, more innovative or stylish models are introduced.⁹⁶ *** described the life cycle of a bottom mount refrigerator as typically two to three years, with a maximum of six years, and reported that ***.⁹⁷ Importers described the average life cycle of a bottom mount refrigerator as two to three years with a maximum of five years, although *** reported that more expensive models have shorter life cycles.⁹⁸ *** reported offering discounts of *** to *** percent on end-of-life-cycle models, while *** reported

⁸⁶ CR at II-6; II-3-4.

⁸⁷ 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.

⁸⁸ See CR at II-22; PR at II-13; CR/PR at Table II-2; Hearing Tr. at 201-2 (Baird).

⁸⁹ Hearing Tr. at 121 (Bitzer), 166 (Herring).

⁹⁰ See Hearing Tr. at 168 (Herring); CR/PR at Table II-3.

⁹¹ See Hearing Tr. at 93 (Bitzer).

⁹² The average unit value of domestic industry U.S. shipments of bottom mount refrigerators ranged from \$*** to \$***, while the average unit value of domestic industry U.S. shipments of top mount refrigerators ranged from \$*** to \$*** and the average unit value of domestic industry U.S. shipments of side-by-side refrigerators ranged from \$*** to \$***. Memorandum INV-KK-046 (April 16, 2012) at Table C-1; CR/PR at Table C-3.

⁹³ Conference Tr. at 116 (Politeski); CR/PR at D-6.

⁹⁴ CR at II-16-17; PR at II-9.

⁹⁵ CR at II-16-17; PR at II-9.

⁹⁶ CR at V-13; PR at V-7-8; see also Hearing Tr. at 188 (Klett); Capital Trade Hearing Exhibits 1-2.

⁹⁷ CR at V-13; PR at V-7-8.

⁹⁸ CR at V-13; PR at V-7-8.

offering discounts of *** to *** percent on such models.⁹⁹ New bottom mount refrigerator models are typically introduced at higher prices than the models they replace, reflecting product improvements and updated styling.¹⁰⁰

B. Supply Conditions

There are currently five known U.S. producers of bottom mount refrigerators -- GE, Haier, Sub-Zero, Viking, and Whirlpool.¹⁰¹ Whirlpool alone, however, accounted for *** percent of reported domestic production in 2011.¹⁰² The domestic industry's share of apparent U.S. consumption declined from *** percent in 2009 to *** percent in 2010 and *** percent in 2011.¹⁰³

A majority of bottom mount refrigerators sold in the U.S. market during the period examined were subject imports from Korea and Mexico, whose share of apparent U.S. consumption increased from *** percent in 2009 to *** percent in 2010, before declining to *** percent in 2011.¹⁰⁴ Most subject imports were both manufactured and imported by LG and Samsung, which produced bottom mount refrigerators in both Korea and Mexico.¹⁰⁵ As importers, LG and Samsung accounted for *** percent of reported subject imports from Korea and *** percent of reported subject imports from Mexico in 2011.¹⁰⁶ The only other significant importer of subject bottom mount refrigerators was ***, which accounted for *** percent of reported subject imports from Mexico in 2011.¹⁰⁷

Nonsubject imports as a share of apparent U.S. consumption declined from *** percent in 2009 to *** percent in 2010 before increasing to *** percent in 2011.¹⁰⁸ Most nonsubject imports were imported by GE from its joint venture with Mabe in Mexico.¹⁰⁹ Mabe received a *de minimis* dumping

⁹⁹ CR at V-13-14; PR at V-7-8.

¹⁰⁰ Hearing Tr. at 179 (Baird) (stating that LG recently introduced two bottom mount refrigerators with new features for \$3,199 and \$4,200, respectively), 212-13 (Mr. Herring: ". . . I think one other way of raising costs is bring out a new model and trying to increase the retail positioning at that time other than the existing models where you see their price increase based upon materials and transportation increases, et cetera." Commissioner Aranoff: ". . . {A}re you saying you would bring out a new model with more or less the same features so that you could charge a higher price for it or that you would bring out a new model with new features and then charge a higher price for it?" Mr. Herring: "The latter."); Samsung's Posthearing Brief at A-42.

¹⁰¹ CR/PR at III-1 & n.1.

¹⁰² CR/PR at Table III-1.

¹⁰³ Memorandum INV-KK-046 (April 16, 2012) at Table IV-8.

¹⁰⁴ Memorandum INV-KK-046 (April 16, 2012) at Table IV-8.

¹⁰⁵ CR at VII-3-4, 8-9; PR at VII-3, 6.

¹⁰⁶ CR/PR at Table IV-1 (excluding ***).

¹⁰⁷ CR/PR at Table IV-1 (excluding ***).

¹⁰⁸ Memorandum INV-KK-046 (April 16, 2012) at Table IV-8.

¹⁰⁹ Memorandum INV-KK-046 (April 16, 2012) at Table IV-8.

margin in Commerce's final antidumping duty determination after corrections were made for ministerial errors.¹¹⁰ Other sources of reported nonsubject imports were ***.¹¹¹

C. Market Dynamics

As noted above, most bottom mount refrigerators are sold by domestic producers and importers to the four largest retailers ***.¹¹² With the exception of ***, addressed below, most retailers purchase bottom mount refrigerators through direct negotiations with suppliers.¹¹³ According to Whirlpool, typical negotiations involve a supplier suggesting a MAP for each bottom mount refrigerator model offered, through which suppliers seek to establish a retail price floor for their products.¹¹⁴ Suppliers generally apply the same MAPs to all retail customers.¹¹⁵ Home Depot claims that, as a practical matter, retailers cannot sell in excess of MAP, due to intense price competition on comparable models.¹¹⁶ Although retailers can and do advertise bottom mount refrigerators at prices below MAP prices ("breaking the MAP"),¹¹⁷ they risk incurring financial penalties from manufacturers, such as the reduction of co-op advertising funds or even supply interruptions.¹¹⁸ Retailers are free to sell bottom mount refrigerators at unadvertised, below-MAP prices in their stores, however.¹¹⁹

After presentation of the MAPs, suppliers and retailers negotiate a profit margin with respect to each model at issue, expressed as a percentage of the MAP.¹²⁰ Among the 11 responding purchasers that reported engaging in negotiations with their suppliers, none reported quoting competing prices during negotiations.¹²¹ Retailers decide which models to purchase based on features, brand, margins, retail prices (i.e., MAPs), promotions and allowances, quality, and anticipated consumer demand.¹²² Retailer purchasing decisions are also influenced by the desire to fill limited floor space with a mix of bottom mount refrigerator products that appeal to a wide range of consumers.¹²³

¹¹⁰ Memorandum from The Team to James Maeder, Ministerial Error Allegations in the final Determination of the Antidumping Duty Investigation on Bottom Mount Combination Refrigerator-Freezers from Mexico, April 11, 2012, at 6.

¹¹¹ CR at II-13; PR at II-7.

¹¹² CR at II-6; PR at II-4.

¹¹³ Eleven responding purchasers reported that their purchases involved negotiations with suppliers, while five reported that they did not. CR at V-4; PR at V-2-3.

¹¹⁴ CR at V-5; PR at V-3-4.

¹¹⁵ CR at V-7 n.17; PR at V-4 n.17 (13 responding purchasers reported that their MAPs are the same as those of their competitors, while one reported that they might be different).

¹¹⁶ CR at V-6; PR at V-4; Conference Transcript at 131 (Baird).

¹¹⁷ See CR at V-6-7; PR at V-4 (ten responding purchasers stated that they set their retail prices below the MAP "frequently," and another four set their retail prices below MAP "sometimes"); Hearing Tr. at 274 (Jovais).

¹¹⁸ CR at V-6; PR at V-4. Although the Commission received testimony as to these potential outcomes, ten responding purchasers reported setting retail prices below MAPs frequently and four responding purchasers reported doing so sometimes. CR at V-6-7.

¹¹⁹ Hearing Tr. at 64 (Bitzer); CR at V-6-7; PR at V-4.

¹²⁰ CR at V-5; PR at V-3; Hearing Tr. at 198 (Baird), 199 (Dexter), 200 (Baird).

¹²¹ CR at V-4; PR at V-2-3.

¹²² CR at II-22, 29-30, V-4; PR at II-13, 17, V-2-3; CR/PR at Table II-2; Hearing Tr. at 201-2 (Baird)

¹²³ CR at II-29; PR at II-17; Hearing Tr. at 205 (Baird).

Discounting is a standard practice in the bottom mount refrigerators market, and large discounts are typically offered during promotional holidays such as Black Friday (i.e., the day after Thanksgiving), Labor Day, Memorial Day, and the Fourth of July.¹²⁴ Promotional events are usually planned months in advance by manufacturers, which reduce the MAPs on promotional models while offering promotional support to retailers to preserve their margins on the models to some extent.¹²⁵ There is evidence that retailers sometimes orchestrate promotional events as well and invite suppliers to participate.¹²⁶ Home Depot reports that *** of its total sales of bottom mount refrigerators take place during such promotional events.¹²⁷ Promotional events reportedly increased in duration and intensity during the period examined,¹²⁸ partly as a means for manufacturers to counteract the lingering effects of the economic downturn.¹²⁹

Discounts on bottom mount refrigerators offered by suppliers to retailers can be characterized as direct or indirect. Direct discounts are discounts, incentives, rebates, and other adjustments tied to specific SKUs, or models.¹³⁰ Specific types of direct discounts used by domestic producers and importers include quantity discounts, annual total volume discounts, sales incentives, promotional discounts, and other discounts.¹³¹ Indirect discounts are allocated discounts, incentives, allowances, and rebates covering broader product categories that include bottom mount refrigerators, such as kitchen appliances or consumer electronics.¹³² Domestic producers and importers reported providing indirect discounts that are conditioned on volume targets, subject to the decision of a sales manager, direct to consumers in the form of rebates, in the form of “spiffs” (payments to a retailer’s sales staff), and by way of advertising and promotional assistance.¹³³ Although all manufacturers offer both direct and indirect discounts, Whirlpool places a greater emphasis on indirect discounts whereas LG and Samsung place a greater emphasis on direct discounts.¹³⁴

The record indicates that all domestic producers and importers discounted their bottom mount refrigerators during the period examined to a similar extent, taking into account both direct and indirect discounts.¹³⁵ Both petitioner and respondents argued that their competitors were more aggressive in offering promotions. For example, Whirlpool cited an economic study indicating that discounts on specific LG and Samsung models greatly increased sales of the models,¹³⁶ and highlighted “LG’s well-known and notorious Black Friday 2010 sale, where LG slashed the price of its four-door French door model by nearly 50 percent.”¹³⁷ Samsung cited advertisements internally collected from the Black Friday

¹²⁴ CR at V-14, 16; PR at V-8.

¹²⁵ CR at V-6; PR at V-4.

¹²⁶ Petitioner claims that Home Depot pressured Whirlpool into participating in its “Summer Fest 2011” promotion under the threat of losing market share to LG. Petitioner’s Posthearing Brief at 13, Exhibit D.

¹²⁷ CR at V-16; PR at V-8.

¹²⁸ CR/PR at Table V-1; CR at II-18; PR at II-10; Hearing Tr. at 30 (Bitzer).

¹²⁹ Hearing Tr. at 160 (Dexter).

¹³⁰ CR at V-8; PR at V-5.

¹³¹ CR at V-9; PR at V-5.

¹³² CR at V-8; PR at V-5.

¹³³ CR at V-10; PR at V-6.

¹³⁴ Compare CR/PR at Table V-2 with id. at V-3.

¹³⁵ CR/PR at Tables V-1-3.

¹³⁶ Petitioner’s Prehearing Brief at 16-17, Exhibit 2.

¹³⁷ Hearing Tr. at 31 (Bitzer).

2011 and New Year's Day 2012 promotional periods that ostensibly show a greater number of advertisements featuring Whirlpool models at prices lower than those offered on LG and Samsung models.¹³⁸ LG alleged that Whirlpool engaged in extensive "off MAP" discounting (manufacturer-supported in store discounts limited to specific retailers) during the period examined that was not reported to the Commission.¹³⁹ Given the selective nature of the evidence presented by the parties, we are unable to conclude that any supplier or suppliers discounted their bottom mount refrigerators more aggressively than other suppliers. The record indicates that the market for bottom mount refrigerators is extremely competitive at both levels of trade and that all suppliers, foreign and domestic, engaged in extensive discounting.¹⁴⁰

***.¹⁴¹ ***.¹⁴² ***.¹⁴³ Whirlpool's only lost sales allegations concern ***.¹⁴⁴

D. Substitutability

As detailed in section IV.B above, we have found a sufficient degree of substitutability between subject imports and the domestic like product to suggest a reasonable overlap of competition. A majority of responding domestic producers and purchasers reported that subject imports and the domestic like product are "always" or "frequently" used interchangeably, while a majority of responding importers reported that they are "frequently" or "sometimes" used interchangeably.¹⁴⁵ All parties have presented price comparisons between specific domestically produced and subject bottom mount refrigerators that they contend compete in the market,¹⁴⁶ and most major retailers carry both domestically produced and subject imported bottom mount refrigerators.¹⁴⁷ In addition, our pricing data indicate that four 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.¹⁴⁸

Price is an important factor in the bottom mount refrigerator market. Responding purchasers ranked price more than any other factor as among the top three factors that influence their purchasing

¹³⁸ Samsung's Prehearing Brief at 20-22.

¹³⁹ LG's Prehearing Brief at 16-17. We note that retailers can and do price bottom mount refrigerators below MAPs in stores at their own initiative, with no supplier involvement. See CR at V-6-7; PR at V-4 (ten responding purchasers stated that they set their retail prices below the MAP "frequently," and another four set their retail prices below MAP "sometimes"); Hearing Tr. at 64 (Bitzer), 274 (Jovais).

¹⁴⁰ See CR/PR at Tables V-1-4.

¹⁴¹ CR at V-4; PR at V-3.

¹⁴² CR at V-4; PR at V-3.

¹⁴³ CR at V-4; PR at V-3.

¹⁴⁴ CR at V-90-91; PR at V-18.

¹⁴⁵ CR/PR at Table II-6.

¹⁴⁶ See, e.g., Petitioner's Hearing Exhibits 15-16; Hearing Tr. at 160-65 (Seagriff); Samsung's Physical Hearing Exhibits; 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.

¹⁴⁷ See Domestic Producers' Questionnaire Response of Whirlpool at Question IV-24; Importers' Questionnaire Response of LG at Question III-24; Importers' Questionnaire Response of Samsung at Question III-24; see also CR at II-6.

¹⁴⁸ CR/PR at Tables V-3-15.

decisions, with ten responding purchasers ranking price among their top three factors.¹⁴⁹ Thirteen responding purchasers cited price as “very important” to their purchasing decisions and second only to availability, which fifteen responding purchasers cited as “very important.”¹⁵⁰ The prevalence of discounting in the bottom mount refrigerator market, and an internal document from LG indicating that price is often the deciding factor in the “final stage” of the consumer bottom mount refrigerator selection process,¹⁵¹ are further evidence that price is an important factor in the bottom mount refrigerator market.

Nevertheless, the record of the final phase of these investigations indicates that non-price factors are important as well. Eleven of 14 responding purchasers ranked factors other than price, including consumer demand, product features and innovation, and availability/reliability of supply, as the most important factor motivating their purchasing decisions.¹⁵² Eight responding purchasers (including ***) reported purchasing bottom mount refrigerators from one source even though a comparable product was available from a different source at a lower price.¹⁵³ Fourteen responding purchasers reported that they only “sometimes” purchase the lowest-priced bottom mount refrigerators, while one reported that it usually does so and one reported that it always does so.¹⁵⁴ When asked how often differences other than price matter in competition between domestically produced and subject imported bottom mount refrigerators, one responding domestic producer reported “frequently” and one reported “sometimes,” a majority of responding importers reported “always” or “frequently,” and most responding purchasers reported “sometimes.”¹⁵⁵

The Commission’s questionnaires asked domestic producers, importers, and purchasers to provide market research studies on the factors that influence bottom mount refrigerator purchases, and these studies confirm that both price and non-price factors are important in the bottom mount refrigerator market. A *** study submitted by Whirlpool indicates that ***.¹⁵⁶ A *** study submitted by Samsung indicates that ***.¹⁵⁷ Another *** study submitted by Samsung indicates that ***,¹⁵⁸ ***,¹⁵⁹

The record indicates that LG’s and Samsung’s bottom mount refrigerators are perceived by retailers and consumers as superior to Whirlpool’s bottom mount refrigerators in terms of their design and construction (characterized by respondents as “fit, feel, and finish”) and innovative features. When asked to name the “innovation leaders” in the U.S. bottom mount refrigerator market, eleven responding purchasers named LG, ten named Samsung, and only three named Whirlpool.¹⁶⁰ Responding purchasers cited slim in door ice makers, tall dispensers, large capacity, smart diagnostics, LED lighting, and French door configurations as innovations introduced by LG and four-door products, touch screen displays, twin cooling, freezer door release technology, large capacity, and LED lighting as innovations introduced by

¹⁴⁹ CR/PR at Table II-2.

¹⁵⁰ CR/PR at Table II-3.

¹⁵¹ Petitioner’s Postconference Brief, Exhibit 2 at 2.

¹⁵² CR/PR at Table II-2.

¹⁵³ CR at II-24; PR at II-14.

¹⁵⁴ CR at II-23; PR at II-13.

¹⁵⁵ CR/PR at Table II-8.

¹⁵⁶ Petitioner’s Posthearing Brief, Exhibit N at 2-3. *** Id.

¹⁵⁷ CR at D-5; PR at D-3.

¹⁵⁸ CR at D-5; PR at D-3.

¹⁵⁹ See ***, EDIS Document No. 472910.

¹⁶⁰ CR at II-3; PR at II-2. One named GE. Id.

Samsung.¹⁶¹ In response to Whirlpool's lost sales allegations, ***.¹⁶² A witness for Home Depot stated at the hearing that LG and Samsung make a more fashionable, attractive product and that he has repeatedly requested since 2006 that Whirlpool improve the design of its bottom mount refrigerators.¹⁶³

Market research studies submitted by Samsung generally support respondents' position that consumers tend to prefer subject imports to the domestic like product based on non-price factors. ***.¹⁶⁴ ***.¹⁶⁵ ***.¹⁶⁶ ***.¹⁶⁷ On the other hand, ***.¹⁶⁸ Notwithstanding the recognized quality of Whirlpool bottom mount refrigerators,¹⁶⁹ on balance, the record shows that retailers and consumers tend to prefer LG and Samsung bottom mount refrigerators to comparable Whirlpool bottom mount refrigerators based on non-price factors.

Another factor that served to attenuate price competition between subject imports and the domestic like product was Whirlpool's absence from the jumbo bottom mount refrigerator market and its late entrance into the four-door bottom mount refrigerator market.¹⁷⁰ As noted above, increased demand

¹⁶¹ CR at II-3; PR at II-2.

¹⁶² CR at V-90, 92; PR at V-18-19.

¹⁶³ Hearing Tr. at 264-65 (Baird) ("Once you go to {the year} 2000, it becomes a fashion game, and I think what LG and Samsung has introduced fashion into appliances, and, quite frankly, and Mark would tell you this is true. I've been asking them for six years to keep up with fashion, and the fact is they've done that on laundry. They've done that on dishwashers. They've done that on Ranges. The fact is they've got one category that's way behind. And I think they know that, bottom line, and they're going to fix that, but they're just way behind on refrigerators when it's all said and done.").

¹⁶⁴ Samsung's Prehearing Brief at 11-12.

¹⁶⁵ Samsung's Prehearing Brief at 12.

¹⁶⁶ Samsung's Prehearing Brief at 13-14.

¹⁶⁷ Samsung's Prehearing Brief at 15-16.

¹⁶⁸ CR at D-6; PR at D-3; Petitioner's Posthearing Brief at Exhibit A. The extent to which Consumer Reports's rankings take into account subjective factors that influence purchasing decisions, such as fit, feel, and finish, is unclear.

¹⁶⁹ Hearing Tr. at 182 (Baird) ("In my opinion the Maytag and Whirlpool is equally as good a quality of LG and Samsung, if not better."). Mr. Baird's testimony indicates that Whirlpool's bottom mount refrigerators are comparable or superior to those of LG and Samsung in terms of quality, while LG and Samsung's bottom mount refrigerators are superior to Whirlpool in terms of design and innovation. Hearing Tr. at 179 (Baird) ("Whether you want to call it innovation of just new stuff, that's irrelevant, but any meaningful addition to that category, any improvement that's been made in the last six years has been made by LG and Samsung."), 264-65 (Baird), 272 (Baird) ("And it's not better product. Let's make sure we understand. The quality of the Maytag product is fine. That's not what we're talking about. I don't know how you define better. But, in terms of the fit, feel, the fashion look of it, that's what we've been -- that's what we've been harping on them for a long time, and, like I said, they achieved that in most every category. This is just the last one that they have to do.").

¹⁷⁰ In our preliminary determination, we rejected Samsung's argument that the increase in subject imported jumbo bottom mount refrigerators was not significant because domestic producers did not offer a jumbo bottom mount refrigerator. Preliminary Determination at 21 n.139. In this regard, we noted that respondents themselves compared smaller capacity Whirlpool models to jumbo capacity subject imported models. *Id.* We also noted that a capacity difference of one or two feet might make no practical difference in terms of usable capacity, given evidence that practical capacity can differ from rated capacity. *Id.*

We have reconsidered this issue in light of the record in the final phase of these investigations and reach a different conclusion for the following reasons. First, ***. CR at V-92; PR at V-19.

Second, the record indicates that purchasers consistently paid a substantial premium for subject imported jumbo bottom mount refrigerators over the most comparable domestically produced models. See Samsung's Final

for jumbo and four-door bottom mount refrigerators accounted for approximately *** percent of the increase in apparent U.S. consumption of bottom mount refrigerators during the period examined.¹⁷¹ Whirlpool introduced a four-door bottom mount refrigerator model only in the third quarter of 2010, two years after the introduction of subject imported four-door models.¹⁷² Demand for jumbo bottom mount refrigerators was satisfied exclusively by subject imports because Whirlpool offered no jumbo bottom mount refrigerator model during the period examined. Four-door and jumbo bottom mount refrigerators accounted for approximately *** percent of the increase in subject import U.S. shipment volume between 2009 and 2011.¹⁷³

In sum, we find that a moderate degree of substitutability exists between subject imports and the domestic like product with respect to comparable models and that price is an important factor in the bottom mount refrigerator market. We base this finding on evidence that competition between subject imports and the domestic like product was attenuated to some extent due to the perceived qualitative

Comments at Table 2. Whirlpool argued that sales of domestically produced products 2A (four-door, 24.5 to 25.4 cubic feet) and 6A (three-door 24.5 to 26.4 cubic feet) competed with subject imported jumbo products 3A (four-door 27.5 cubic feet plus) and 5A (three-door 27.5 cubic feet plus), respectively. Petitioner's Posthearing Brief at II-5-6. The record indicates that subject imported product 3A commanded a \$*** to \$*** per unit premium over domestically produced product 2A (with the exception of the third quarter of 2010, when it was priced \$*** lower). CR/PR at Tables V-22 and 24. Subject imported product 5A commanded a \$*** to \$*** per unit premium over domestically produced product 6A. *Id.* at Tables V-28 and 30. These price premiums reflect the economic value that purchasers place on the additional capacity afforded by jumbo bottom mount refrigerators.

Finally, a witness for Whirlpool conceded that “{i}t is true that over the past three years, there has been a movement to larger bottom-mount refrigerators, over 27 cubic foot, which has been led by Samsung and LG.” Hearing Tr. at 28 (Bitzer). This statement is confirmed by market research data indicating that the jumbo share of the overall bottom mount refrigerator market increased from 14.9 percent in 2009 to 17.8 percent in 2010 and 22.4 percent in 2011. *See* Petitioner's Hearing Exhibit 7. There would have been no such movement if consumers viewed smaller, cheaper domestically produced bottom mount refrigerators as an acceptable substitute for subject imported jumbo bottom mount refrigerators.

Based on the foregoing, we find that there is limited competition between subject imported jumbo bottom mount refrigerators and domestically produced non-jumbo bottom mount refrigerators.

We also found in the preliminary phase of the investigations that there was 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 market. Preliminary Determination at 20 n.139. The record of the final phase of the investigations continues to support that finding. *See, e.g.,* CR/PR at Tables V-30-31 (indicating substantial competition between subject imports and the domestic like product with respect to product six, encompassing bottom mount refrigerators with a capacity of 24.5 to 26.4 cubic feet). No party argued in the final phase of the investigations that bottom mount refrigerators with a capacity of 25.5 cubic feet or greater constituted a distinct segment of the bottom mount refrigerator market.

¹⁷¹ Apparent U.S. consumption of jumbo bottom mount refrigerators increased from approximately *** units in 2009 to *** units in 2011. *See* Petitioner's Hearing Exhibit 7; Memorandum INV-KK-046 (April 16, 2012) at Table IV-8 (multiplying apparent U.S. consumption by the market share of jumbo bottom mount refrigerators, based on Traqline data). The reported sales volume of products 2 and 3, which are four door bottom mount refrigerator models, increased from *** units in 2009 to *** units in 2011. CR/PR at Tables V-22, 24.

¹⁷² CR/PR at Table V-22; Hearing Tr. at 170-71 (Herring) (LG introduced its first four door model in 2008).

¹⁷³ Between 2009 and 2011, reported sales of subject imports satisfying the definitions of products 2 and 3, which are four-door models, increased *** units, CR/PR at Tables V-22, 24, while sales of jumbo bottom mount refrigerators increased by approximately *** units, *see* footnote 171, *supra*, for a total increase of *** units. Subject import U.S. shipments increased by *** units during the period. Memorandum INV-KK-046 (April 16, 2012) at Table IV-7.

superiority of subject imports, the domestic industry’s absence from the jumbo bottom mount refrigerator market, and the domestic industry’s late entry into the four-door bottom mount refrigerator market.¹⁷⁴

VI. NO MATERIAL INJURY BY REASON OF SUBJECT IMPORTS¹⁷⁵

A. Legal Standard

In the final phase of antidumping and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.¹⁷⁶ 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.¹⁷⁷ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”¹⁷⁸ In assessing whether 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.¹⁷⁹ 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.”¹⁸⁰

Although the statute requires the Commission to determine whether the domestic industry is “materially injured by reason of” unfairly traded imports,¹⁸¹ 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.¹⁸² 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

¹⁷⁴ Due to the factors that attenuated subject import competition to some extent during the period examined, we disagree with the Commission staff’s assessment that there is a moderate-to-high degree of substitutability between subject imports and the domestic like product. See CR at II-21; PR at II-12.

¹⁷⁵ 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; PR at IV-3-4.

¹⁷⁶ 19 U.S.C. §§ 1671d(b), 1673d(b).

¹⁷⁷ 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 ... and explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B).

¹⁷⁸ 19 U.S.C. § 1677(7)(A).

¹⁷⁹ 19 U.S.C. § 1677(7)(C)(iii).

¹⁸⁰ 19 U.S.C. § 1677(7)(C)(iii).

¹⁸¹ 19 U.S.C. §§ 1671d(a), 1673d(a).

¹⁸² 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’d, 944 F. Supp. 943, 951 (Ct. Int’l Trade 1996).

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.¹⁸³

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 non-subject 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.¹⁸⁴ In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.¹⁸⁵ 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 non-

¹⁸³ 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 F.3d 1345, 1357 (Fed. Cir. 2006); Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

¹⁸⁴ 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.

¹⁸⁵ 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, Invs. 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.”).

subject imports, which may be contributing to overall injury to an industry.¹⁸⁶ It is clear that the existence of injury caused by other factors does not compel a negative determination.¹⁸⁷

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.”^{188 189} Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed “rigid adherence to a specific formula.”¹⁹⁰

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 non-subject 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 non-subject imports.¹⁹¹ The additional “replacement/benefit” test looked at whether non-subject 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

¹⁸⁶ S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

¹⁸⁷ 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.”).

¹⁸⁸ 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 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75.

¹⁸⁹ 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 non-subject imports, albeit without reliance upon presumptions or rigid formulas. Mittal explains as follows:

What Bratsk held is that “where commodity products are at issue and fairly traded, price-competitive, non-subject 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 non-subject 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.

¹⁹⁰ 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.”).

¹⁹¹ Mittal Steel, 542 F.3d at 875-79.

“show that the harm occurred ‘by reason of’ the LTFV imports,” and requires that the Commission not attribute injury from non-subject imports or other factors to subject imports.¹⁹² 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 non-subject 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.¹⁹³

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.¹⁹⁴ Congress has delegated this factual finding to the Commission because of the agency’s institutional expertise in resolving injury issues.¹⁹⁵

B. 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.”¹⁹⁶

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 2009 and 2011, cumulated subject imports increased *** percent, from *** units in 2009 to *** units in 2010 and *** units in 2011, while U.S. shipments of subject imports increased *** percent, from *** units in 2009 to *** units in 2010 and *** units in 2011.¹⁹⁷ Subject import U.S.

¹⁹² 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).

¹⁹³ 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 non-subject countries that accounted for substantial shares of U.S. imports of subject merchandise (if, in fact, there were large non-subject import suppliers). In order to provide a more complete record for the Commission’s causation analysis, these 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 non-subject imports.

¹⁹⁴ We provide in our respective discussions of volume, price effects, and impact a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

¹⁹⁵ 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.”).

¹⁹⁶ 19 U.S.C. § 1677(7)(C)(i).

¹⁹⁷ Memorandum INV-KK-046 (April 16, 2012) at Tables IV-4, 7. We reject petitioner’s request that we expand the period of investigation to include 2008 data collected in the preliminary phase of the investigations. Petitioner’s Prehearing Brief at 1. Petitioner argues that data from 2008 should be included in the Commission’s injury analysis because it shows more clearly the extent of subject import market share gains at Whirlpool’s expense. Id. We find that Whirlpool has failed to provide a compelling reason for us to deviate from our normal practice of considering data from the last three calendar years prior to initiation of the final phase investigations, plus any interim period. Moreover, the data collected in the final phase of the investigations is far more extensive and not fully compatible

shipments as a share of apparent U.S. consumption increased from *** percent in 2009 to *** percent in 2010 before declining to *** percent in 2011, a level still *** percentage points higher than in 2009.¹⁹⁸ Subject imports exceeded domestic industry production throughout the period examined and, as a percentage of domestic production, increased from *** percent in 2009 to *** percent in 2010 and *** percent in 2011.¹⁹⁹

Notwithstanding the significant increase in subject import volume during the period examined, we find that subject imports did not displace a significant volume of domestic industry shipments from the U.S. market. Although the *** percentage point increase in subject import market share coincided with an *** percentage point decline in domestic industry market share, the domestic industry still managed to increase its U.S. shipments *** percent from *** units in 2009 to *** units in 2010 and *** units in 2011.²⁰⁰ Thus, subject imports did not capture market share from the domestic industry in an environment of stagnant demand. Rather, subject imports increased their market share by capturing most of the *** percent increase in apparent U.S. consumption between 2009 and 2011.²⁰¹

An important factor behind the domestic industry's declining market share during the period examined was Whirlpool's lack of a jumbo capacity bottom mount refrigerator model and its introduction of a four door bottom mount refrigerator model only in the third quarter of 2010, two years after the introduction of subject imported four door models.²⁰² Both types of bottom mount refrigerators accounted for most of the growth in bottom mount refrigerator demand during the period examined.²⁰³ Specifically, jumbo bottom mount refrigerators accounted for approximately *** percent of the increase in apparent U.S. consumption of bottom mount refrigerators during the period examined, while four-door bottom mount refrigerators accounted for approximately *** percent of the increase.²⁰⁴ Indeed, four-door and jumbo bottom mount refrigerators accounted for approximately *** percent of the increase in subject

with the data collected in the preliminary phase of the investigations. For example, the Commission received importers' questionnaire responses from eleven firms in the preliminary phase of the investigations and from nine firms in the final phase of the investigations. Compare Preliminary Confidential Staff Report ("PCR") at IV-1 with CR/PR at IV-1. The Commission issued questionnaires to purchasers in the final phase of the investigations, but not in the preliminary phase. Compare CR at II-21-35; PR at II-12-21 with PCR at II-15-18. Different pricing data were reported by domestic producers and importers in the final phase of the investigations, with the collection of indirect discount data on a quarterly and product-specific basis, and the definitions of products 6 and 7 changed. See CR at V-19-20; PR at V-10-11.

¹⁹⁸ Memorandum INV-KK-046 (April 16, 2012) at Table IV-8.

¹⁹⁹ Memorandum INV-KK-046 (April 16, 2012) at Table IV-9.

²⁰⁰ Memorandum INV-KK-046 (April 16, 2012) at Tables IV-7-8.

²⁰¹ Memorandum INV-KK-046 (April 16, 2012) at IV-8.

²⁰² CR/PR at Table V-22; Hearing Tr. at 170-71 (Herring) (LG introduced its first four door model in 2008).

²⁰³ See Hearing Tr. at 28 (Bitzer) ("It is true that over the past three years, there has been a movement to larger bottom-mount refrigerators, over 27 cubic foot, which has been led by Samsung and LG."). Whirlpool claims to have produced a vacuum panel 27.4 cubic foot bottom mount refrigerator model in 2009 and 2010. Id. at 292 (Bitzer). We would note, however, that Whirlpool ***. See CR/PR at Tables V-24-25, 28-29. The Commission's instructions directed questionnaire respondents to report products they believe are comparable and competitive with a pricing product even if they do not meet every specification. See Domestic Producers' Questionnaire at Question IV-2, note.

²⁰⁴ See footnote 171, supra.

import U.S. shipment volume between 2009 and 2011.²⁰⁵ Because most of the increase in subject import volume and market share resulted from increased sales of models that the domestic industry either did not produce or produced only toward the end of the period examined, we do not find that the increase came at the expense of the domestic industry.²⁰⁶ Subject imports increased to serve demand that the domestic industry was incapable of fully satisfying.

Another significant portion of the increase in subject import volume and market share between 2009 and 2010 resulted from ***.²⁰⁷ As detailed in the following section, we find that price was not a significant factor in ***.

We conclude that the volume of cumulated subject imports and the increase in that volume, although significant both in absolute terms and relative to consumption and production in the United States, did not displace a significant volume of domestic industry shipments from the U.S. market.

C. 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.²⁰⁸

As addressed in section V.D above, the record indicates that there is a moderate degree of substitutability in demand between subject imports and the domestic like product, with several factors that attenuated subject import competition, and that both price and non-price factors are important considerations in purchasing decisions.

Our pricing analysis is complicated by a number of factors. First, bottom mount refrigerators are highly differentiated products that continued to evolve during the period examined, with the introduction of new or improved features and greater capacity. All parties agree that the value consumers attach to competing bottom mount refrigerator models is based on each consumer's subjective judgment regarding the value of unique combinations of features, capacity, brand, reliability, physical dimensions, and

²⁰⁵ Between 2009 and 2011, reported sales of subject imports satisfying the definitions of products 2 and 3, which are four-door models, increased *** units, CR/PR at Tables V-22, 24, while sales of jumbo bottom mount refrigerators increased by approximately *** units, see footnote 171, supra, for a total increase of *** units. Subject import U.S. shipments increased by *** units during the period. Memorandum INV-KK-046 (April 16, 2012) at Table IV-7.

²⁰⁶ As discussed in footnote 170, supra, we have determined that competition between subject imported jumbo bottom mount refrigerators and domestically produced non-jumbo refrigerators was attenuated.

²⁰⁷ CR at V-90; PR at V-18. *** reported a *** unit increase in purchases of *** between 2009 and 2010, Purchaser's Questionnaire Response of *** at Question II-1, and LG claims that the increase resulted from ***. LG's Prehearing Brief at 55.

²⁰⁸ 19 U.S.C. § 1677(7)(C)(ii).

styling, among other things.²⁰⁹ Second, pricing practices in the bottom mount refrigerator market are characterized by manufacturer efforts to guide retail prices via MAPs, independent retailer decisions to offer bottom mount refrigerators at prices below MAPs, and pervasive, periodic discounting that intensified during the period examined.²¹⁰ Finally, although price is an important factor in the bottom mount refrigerator market, a myriad of non-price factors are also important, including features, capacity, brand, reliability, physical dimensions, and “fit, feel, and finish.”²¹¹

We decline the following invitations from the parties to deviate from our normal practice in analyzing price effects in the final phase of these investigations. Respondents argue that the Commission should discount the pricing data reported for products 1A and 1B, encompassing two-door bottom mount refrigerators, because, in their view, two-door bottom mount refrigerators are low grade commodity products that experienced little demand growth during the period examined and were not the focus of the petition.²¹² We reject this argument because petitioner specifically addresses two-door bottom mount refrigerators in the context of its like product argument and lost sales allegations.²¹³ In addition, two-door bottom mount refrigerators are squarely within the scope of the investigations and the domestic like product definition.

LG argues that the Commission should discount the pricing data it reported for products 2A and 2B, encompassing certain four-door bottom mount refrigerators, because these categories include pricing data for a “drop in” promotional model that was stripped of features and designed to sell at a lower price.²¹⁴ We reject LG’s argument because discounting is pervasive in the bottom mount refrigerator market and a legitimate focus of our underselling analysis.

Samsung argues that the margins between MAP prices and invoice prices net of direct and indirect discounts earned by retailers provide confirmation that subject imports had no adverse price

²⁰⁹ See Hearing Tr. at 33 (Bitzer) (“The price at which any producer can sell depends on consumer perceptions about the total value of its product offering at the price at which it is offered for sale.”), 221 (Baird) (“But the fact is, I don’t think it is particular features with value. I think it’s the total package and I think -- I think it’s just how the customer approaches the whole product in terms of how it appeals to him. There are certain defaults. You’ve got to have glass shelves. You’ve got to have -- most of them have stainless steel. So, there are certain non-negotiables. But, overall, it’s hard to actually get dollar values per feature.”), 221-22 (Connelly) (“It’s impossible to assign an objective value to a feature. Why? Because, everyone evaluates the importance of a feature differently. When you go to look at a refrigerator, one feature may mean more to you, another may mean less to you. It’s an entirely subjective decision as to how you make your decision.”); see also Petitioner’s Posthearing Brief at II-1 (in response to a staff question asking petitioner to “estimate the amount of the premium for each foreign producer” due to “superior fit, feel, and finish,” petitioner opined that “{t}he question calls for subtle and subjective judgments, and the answer can be different for different consumers and for different SKU-to-SKU comparisons . . .”).

²¹⁰ See Section V.C, *supra*.

²¹¹ See Section V.C, *supra*.

²¹² See Samsung’s Prehearing Brief at 6-7; LG’s Prehearing Brief at 7-9. We recognize that Samsung *** the two-door bottom mount refrigerator market during the period examined, with its U.S. shipments of such models declining from *** units in 2009 to *** units in 2010 and *** units in 2011. Samsung’s Prehearing Brief at Exhibit 2.

²¹³ See Petitioner’s Posthearing brief at 14 (***), III-8-10 (arguing that two-door bottom mount refrigerators should not be made a separate like product), III-15 (arguing that two-door bottom mount refrigerators are commercially important as a segment accounting for roughly *** units in 2011). See also Petitioner’s Prehearing Brief at 44; LG’s Prehearing Brief at 55 (***).

²¹⁴ LG’s Prehearing Brief at 29. In its comments on the draft questionnaires, LG had no objection to the proposed definition of product 2. See LG’s Comments on the Draft Questionnaires at 18-20.

effects.²¹⁵ We do not find these margins helpful to our analysis because MAP prices are not a reliable proxy for retail prices²¹⁶ and because margins are but one factor considered by retailers in making purchasing decisions.²¹⁷

Petitioner argues that the Commission should compare the pricing data reported by Whirlpool to the pricing data reported only by LG and Samsung to determine the number of quarterly comparisons in which either LG or Samsung undersold Whirlpool.²¹⁸ As support, it claims that the “core” of this case is about LG and Samsung, not Electrolux or GE.²¹⁹ Consistent with the statute, our normal methodology compares the weighted average import price with the weighted average price of the domestic like product²²⁰ and does not dis-aggregate pricing data by company or brand.²²¹ Petitioner fails to provide a sufficient reason for us to diverge from our normal practice here.²²²

Petitioner also argues that the Commission should take the relative “feature loads” of competing domestically produced and subject imported models into account in its price comparisons, on the theory that subject import prices adversely impact domestic prices when a competing subject imported model’s superior feature load is not fully reflected in the model’s price.²²³ For purposes of such an analysis, petitioner contends that an Energy Star efficiency rating should be valued at \$50, each additional cubic foot of capacity should be valued at \$100, dual evaporators should be valued at \$150, external ice and water dispensers should be valued at \$700, and LED lighting should be valued at \$100.²²⁴

²¹⁵ Samsung’s Prehearing Brief at 30.

²¹⁶ Ten responding purchasers reported “frequently” setting their retail prices below the MAP and another four reported doing so “sometimes.” See CR at V-6-7; PR at V-10.

²¹⁷ Responding purchasers reported deciding which models to purchase based on features, brand, margins, retail prices (i.e., MAPs), promotions and allowances, quality, and anticipated consumer demand. CR at II-22, 29-30, V-4; PR at II-13, 17, V-3; CR/PR at Table II-2; Hearing Tr. at 205 (Baird)

²¹⁸ See Petitioner’s Prehearing Brief at 7, 48; Petitioner’s April 2, 2012 Submission, at 9, Table 3.

²¹⁹ Petitioner’s Prehearing Brief at 7.

²²⁰ See Sodium Metal from France, Inv. No. 731-TA-1135 (final), USITC Pub. 4045 (November 2008) at 18; Certain Ceramic Station Post Insulators from Japan, Inv. No. 731-TA-1023 (Final), USITC Pub. 3655 (December 2003) at 15 n. 104; see also Celanese Chemicals Ltd. v. United States, Slip. Op. 08-125 (Ct. Int’l Trade November 19, 2008) at 20 (holding that “{t}he Commission is not obligated to examine pricing data on a disaggregated basis, because the statute requires it to analyze injury on an industry-wide basis.”).

²²¹ DRAMs and DRAM Modules from Korea, Inv. No. 701-TA-431 (Final), USITC Pub. 3616 (August 2003) at 24; see also Sodium Hexametaphosphate from China, Inv. No. 731-TA-1110 (Final), USITC Pub. 3984 (March 2008) at 22 n.92.

²²² “{T}he Commission shall consider whether . . . there has been significant price underselling by the imported subject merchandise as compared with the price of domestic like products in the United States” 19 U.S.C. § 1677(7)(C)(ii).

²²³ Hearing Tr. at 34-39 (Bitzer); Petitioner’s Hearing Exhibits 15-16.

²²⁴ Hearing Tr. at 33-34 (Bitzer); Petitioner’s Hearing Exhibit 14; Petitioner’s Posthearing Brief at III-16.

We find petitioner’s proposed analysis unnecessary and unworkable.²²⁵ It is unnecessary because 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.²²⁶ Moreover, petitioner’s analysis would apply only to price comparisons based on NPD data, on which we place little weight for the reasons addressed below.

Petitioner’s proposed analysis is unworkable because the values it would have the Commission assign to different features, ostensibly based on information from Whirlpool and Samsung, are not a reliable measure of their value in the marketplace. Petitioner acknowledges that attaching a monetary value to “fit, feel, and finish” differences between competing models “calls for subtle and subjective judgments.”²²⁷ We fail to see how attaching a monetary value to different feature combinations is any less subjective, particularly when consumers (and by extension retailers) value a manufacturer’s bottom mount refrigerator not by tallying up the value of individual features but rather based on “the total value of its product offering at the price at which it is offered for sale.”²²⁸ Moreover, there is evidence that the values manufacturers assign to different features for MAP purposes are unrelated to their costs or their values in the marketplace.²²⁹ We therefore base our analysis of subject import price effects on our pricing data, which control for many feature differences.

Finally, both respondents and petitioners rely on retail pricing data collected by NDP, a leading market research firm that compiles data for U.S. retail transactions involving appliances. At the hearing, petitioner presented NPD price data purporting to show that LG and Samsung price reductions on specific three- and four-door bottom mount refrigerator models forced Whirlpool to cut the price of its

²²⁵ We also reject petitioner’s argument that any negative determination predicated on a finding that subject imports are qualitatively superior would require the Commission to develop a methodology for measuring the price premium commanded by subject imports for purposes of our pricing analysis. Petitioner’s Posthearing Brief at II-2 (citing Maine Potato Council v. United States, 617 F.Supp. 1088, 1089 (Ct. Int’l Trade 1985)). It is true that in Maine Potato Council, the Court held that “where the Commission finds quality differences significant, it must account for such differences in its analysis.” 617 F. Supp. at 1089. But the Court also held that the Commission’s failure to quantify such quality differences was lawful given the Commission’s finding that such quality differences were not consistent, as reflected by “wide fluctuations in margins of overselling.” Id. at 1090. Although we have found evidence that subject imports are superior in terms of innovation and design to the domestic like product, we do not agree that the Court’s decision in Maine Potato is relevant to our analysis. As in Maine Potato, the record of these investigations indicates that there was no consistent premium commanded by subject imports, with wide fluctuations in margins of overselling and some underselling as well. See CR/PR at Tables V-20-23,26-27, 30-31. Unlike the product at issue in Maine Potato (i.e., potatoes), bottom mount refrigerators encompass a broad range of products, highly differentiated in terms of styling, capacity, and features, and the intrinsic value of any particular bottom mount refrigerator model depends on subjective judgments by individual consumers and retailers. These factors make it impossible for us to quantify the premium commanded by subject imports over the domestic like product for qualitative differences. See Petitioner’s Posthearing Brief at II-1.

²²⁶ CR at V-18-19; PR at V-9-10; CR/PR at Tables V-20-33.

²²⁷ Petitioner’s Posthearing Brief at II-1.

²²⁸ Hearing Tr. at 33 (Bitzer), 220-21 (Baird).

²²⁹ For example, petitioner would have us value dual evaporators, a feature offered only by Samsung, at \$150. See Petitioner’s Hearing Exhibit 14. Yet, a witness for Whirlpool stated at the preliminary conference that adding dual evaporators would cost \$30 to \$40 per unit. Conference Tr. at 78-79 (Bitzer). A witness for Home Depot at the hearing stated that Home Depot has sold an LG model without dual evaporators for the same price as a comparable Samsung model with dual evaporators for the past six years. Hearing Tr. at 221 (Baird); see also id. at 235 (Baird) (“they say a dispenser is worth 700, we would say, there’s no way that a dispenser costs you 700”).

competing models.²³⁰ LG claims that NPD retail price data confirm the predominance of subject import overselling during the period examined, with subject imports overselling the domestic like product in 24 of 38 quarterly comparisons.²³¹ For the same reasons detailed in our preliminary determinations, we again place little weight on price comparisons based on retail pricing data collected by NDP. Such comparisons are not in accordance with our practice of examining prices for the first arms-length transactions in the U.S. market, are subject to manipulation based on the specific models selected for comparison, and would exclude the retail pricing data of two major retailers that do not cooperate with NPD, namely Home Depot and, for 2011, Sears's Kenmore brand.²³²

Our pricing data cover a substantial proportion of sales by the domestic industry and importers of subject merchandise during the period examined. One domestic producer (Whirlpool) and four 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.²³³ 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 2010.²³⁴ 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 SKU satisfying the definition of the product (the "B" products).²³⁵

The Commission collected pricing data net of only direct discounts and net of direct and indirect discounts.²³⁶ All parties agree that the Commission should utilize pricing data net of direct and indirect discounts to conduct its underselling analysis.²³⁷ Because of the importance of discounts to obtaining valid price comparisons in these investigations, the Commission took the unusual step of seeking to verify Samsung's and LG's reported pricing data in addition to petitioner Whirlpool's.²³⁸

Nevertheless, petitioner argues that the Commission should either reject LG's pricing data or conduct its pricing analysis based upon pricing data net of direct discounts, but not indirect discounts, because LG failed to accurately report its indirect discounts.²³⁹ As evidence, petitioner observes that LG originally reported the same indirect discount for all customers in all quarters of each year of the period examined, which is contrary to the model, customer, and time-specific nature of such discounts.²⁴⁰ Petitioner also contends that the Commission was unable to verify the accuracy of LG's pricing and discount data.²⁴¹ Commission staff directed LG to revise its pricing and discount data for 2010 to match

²³⁰ See Hearing Tr. at 34-39 (Bitzer); Petitioner's Hearing Exhibits 15 and 16. Whirlpool noted that the Whirlpool bottom mount refrigerator and one of the two Samsung bottom mount refrigerators featured in Exhibit 16 were identical to the bottom mount refrigerators offered as exhibits by Samsung. Hearing Tr. at 37 (Bitzer).

²³¹ LG's Prehearing Brief at 39, Exhibit 16.

²³² See Preliminary Determination at 24.

²³³ CR at V-27; PR at V-12.

²³⁴ CR at V-27; PR at V-12.

²³⁵ CR at V-20; PR at V-11.

²³⁶ CR at V-20-25; PR at V-11-12. Direct and indirect discounts are discussed *infra* at section V.C.

²³⁷ Hearing Tr. at 76 (Greenwald); Samsung's Prehearing Brief at 24; LG's Prehearing Brief at 24.

²³⁸ CR at V-21 & n.41; PR at V-11 & n.41.

²³⁹ Petitioner's April 2, 2012 Submission, at 4-5; Petitioner's Final Comments at 8.

²⁴⁰ Petitioner's Prehearing Brief at 8, Exhibit 1.

²⁴¹ Petitioner's April 2, 2012 Submission, at 2.

the data that LG had reported to Commerce, and Commerce verified.²⁴² However, petitioner argues that LG's pricing and discount data for 2010 are unreliable because Commerce found that LG had misreported data concerning an allegedly important rebate program and applied adverse facts available.²⁴³ Petitioner also observes that Commission staff were unable to verify LG's pricing and discount data for 2009 and 2011, and instead had LG "mechanically" revise these data in line with the revisions made to its 2010 data.²⁴⁴ In petitioner's view, LG's pricing data remain "demonstrably (and inexcusably) inaccurate."²⁴⁵

We recognize that LG's pricing and discount data are potentially problematic for the reasons cited by petitioner. Given this, we find LG's pricing and discount data less probative than data reported by other responding importers and attach less weight to it. We nevertheless consider LG's pricing data as the only pricing data available on one of the two major importers of subject merchandise. In addition, the inclusion or exclusion of LG's pricing data makes no difference to our analysis, as addressed below.²⁴⁶

The sales price data on the record indicate that subject imports oversold the domestic like product in a majority of quarterly comparisons at significant margins of overselling.²⁴⁷ Between January 2009 and December 2011, subject imports oversold the domestic like product in *** of *** quarterly comparisons, or *** percent of the time, with respect to sales of all bottom mount refrigerators satisfying

²⁴² See Memorandum from Charles Yost to the File, dated March 29, 2012.

²⁴³ Petitioner's April 2, 2012 Submission, at 2-3.

²⁴⁴ Petitioner's April 2, 2012 Submission, at 5. LG revised its pricing data by substituting "corrected" 2010 pricing and discount data, matching the data reported to Commerce, for previously reported 2010 pricing and discount data. See Memorandum from Charles Yost to the File, dated March 29, 2012, at 2. LG then, at the Commission staff's direction, applied the ratio of corrected 2010 prices to previously reported 2010 prices to both its 2009 and 2011 prices. Id.

²⁴⁵ Petitioner's April 2, 2012 Submission, at 1.

²⁴⁶ We reject petitioner's request that we draw adverse inferences against LG and assume that subject imports undersold the domestic like product. Petitioner's Prehearing Brief at 48. Such an inference would penalize Samsung, whose pricing data petitioner accepts as accurate. Petitioner's April 2, 2012 Submission, at 1. We also cannot infer that LG acted unreasonably in not supplying the requisite documents and personnel from Korea, because the verifications were conducted on short notice.

²⁴⁷ CR/PR at Table V-36. We reject petitioner's contention that pricing data for product 6 "mask what was happening because product 6 includes a greater mix of refrigerators with greater feature variation from a larger group of companies than the other three products" for which domestic pricing data were reported. Petitioner's Prehearing Brief at 6. The definition of product 6 is no less specific with respect to features than the definitions of products 1-5, which petitioner proposed, with the exception of the inclusion of bottom mount refrigerators with either single or dual evaporators in product 6. CR at V-18-19; PR at V-9-10. A witness for Home Depot stated that it has sold LG bottom mount refrigerators with single evaporators for the same price as comparable Samsung bottom mount refrigerators with dual evaporators for the past six years. Hearing Tr. at 221 (Baird). Moreover, there is evidence that the domestically produced bottom mount refrigerators reported as product 6 sales generally possessed larger capacities than the subject imported bottom mount refrigerators reported as product 6 sales, which would tend to favor petitioner. See Samsung's Posthearing Brief at A-21-22, Exhibit 6. Finally, in its comments on the draft questionnaires, petitioner urged the Commission to retain the definition of product 6 used in the preliminary phase of the investigations, and the Commission did so, but with a narrower capacity range (24.5-26.4 cubic feet as compared to 22.5-26 cubic feet in the preliminary phase of the investigations). Petitioner's Comments on the Draft Questionnaires, at 3. We find the pricing data reported for product 6 to be reliable for purposes of our analysis.

the pricing product definitions (i.e., the “A” products), at margins ranging from *** to *** percent.²⁴⁸ Over the same period, subject imports oversold 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.²⁴⁹ Based on this evidence, we find that subject import price underselling was not significant during the period examined.

We reach the same conclusion when LG’s data are excluded from our analysis.²⁵⁰ Excluding LG, subject imports oversold the domestic like product in *** of *** quarterly comparisons, or *** percent of the time, with respect to the “A” products, at margins ranging from *** to *** percent.²⁵¹ Subject imports oversold the domestic like product in *** of *** quarterly comparisons, or *** percent of the time, with respect to the “B” products, at margins ranging from *** to *** percent.²⁵² These data all support our finding that subject import price underselling was not significant during the period examined.

We find that subject imports did not depress domestic like product prices to a significant degree during the period examined. The record shows that reported prices net of direct and indirect discounts on domestically produced products 1A-6A and 1B-6B declined between the first and last quarters for which data are available, by between *** to *** percent.²⁵³ We cannot conclude that subject import price competition contributed significantly to this trend, however, due to the absence of any clear correlation between subject import underselling and declining domestic prices. Domestic prices declined during the period examined whether subject imports generally undersold the domestic like product, as with products 1A, 1B, 2A, and 2B, or generally oversold the domestic like product, as with products 4A, 4B, 6A, and 6B.²⁵⁴ Indeed, domestic prices declined by a greater percentage with respect to domestically produced products 4A, 4B, 6A, and 6B, which were generally oversold by subject imports, than for domestically produced products 1A and 1B, which were generally undersold.²⁵⁵

²⁴⁸ CR/PR at Table V-36.

²⁴⁹ CR/PR at Table V-36.

²⁵⁰ Petitioner argued in its final comments that the Commission should include LG’s pricing data in its analysis but consider pricing data net of direct discounts alone, on grounds that LG misrepresented its indirect discounts. Petitioner’s Final Comments at 8. As already noted, all parties agree that the Commission should analyze pricing data net of direct and indirect discounts. An analysis of pricing data net of direct discounts alone would tend to skew our pricing analysis in favor of underselling because domestic producers offered relatively greater indirect discounts, while importers offered relatively greater direct discounts during the period examined. See CR/PR at Table V-2-3. As expected, an analysis of pricing data net of direct discounts alone indicates that subject imports undersold the domestic like product in *** of *** quarterly comparisons with respect to the “A” products and in *** of *** quarterly comparisons with respect to the “B” products. *Id.* at Table V-35. We find it significant, however, that subject imports still generally oversold the domestic like product with respect to products 6A, in *** of *** quarterly comparisons, and 6B, in *** of *** quarterly comparisons. *Id.* at Tables V-15-16. Products 6A and 6B accounted for the largest proportion of reported sales volume by domestic producers -- *** percent and *** percent, respectively -- and importers -- *** percent and *** percent, respectively, of any pricing product. See *id.* at Tables V-5-18.

²⁵¹ CR/PR at Table V-36.

²⁵² CR/PR at Table V-36.

²⁵³ CR/PR at Tables V-34-35.

²⁵⁴ See CR/PR at Tables V-20-23, 26-27, 30-31.

²⁵⁵ Between the first and last quarters for which data are available, domestic prices for products 4A, 4B, 6A, and 6B declined by *** percent, *** percent, *** percent, and *** percent, respectively, while domestic prices for products 1A and 1B declined by *** percent and *** percent, respectively. CR/PR at Table V-34. We recognize that subject import underselling occurred at the same time that domestic prices for products 2A and 2B declined.

Although Whirlpool claims that it deliberately cut prices in 2011 to stanch its loss of market share to subject imports,²⁵⁶ we note that much of the gain in subject import market share occurred in the jumbo segment of the bottom mount refrigerator market, which Whirlpool did not serve.²⁵⁷ Moreover, Whirlpool would not have cut its prices in order to meet subject import prices because subject import prices were generally higher in 2010 and 2011.²⁵⁸

Finally, the record indicates that the price of every bottom mount refrigerator model declines over the course of the model's life cycle, which can range from two to six years.²⁵⁹ Given Whirlpool's "****" in 2011, the decline in the prices of Whirlpool's previous line of bottom mount refrigerators between 2009 and 2011 would have been due in part to the advancing life cycle of these models.²⁶⁰

We also find that subject imports did not suppress domestic like product prices to a significant degree.²⁶¹ The record indicates that the domestic industry experienced a cost-price squeeze during the period examined, and particularly between 2010 and 2011, with the ratio of domestic industry cost of goods sold ("COGS") to net sales increasing from *** percent in 2009 to *** percent in 2010 and *** percent in 2011.²⁶² We cannot conclude that subject import price competition contributed significantly to the domestic industry's inability to raise its prices to cover cost increases for two reasons. First, the domestic industry's cost-price squeeze does not correspond to increases in subject import market share or a substantial amount of underselling, and there is no indication in the pricing data that subject import pricing placed a ceiling on domestic prices. We note that most of the increase in the domestic industry's COGS to net sales ratio during the period examined – *** of the *** percentage point increase --

See id. at Tables V-22-23, 34. Absent a clear relationship between underselling or overselling and the price of other products, we do not find that underselling caused price depression with respect to products 2A and 2B. In any event, products 2A and 2B accounted for only *** percent and *** percent of the sales volume reported by domestic producers, respectively, and we must consider the record as a whole in conducting our pricing analysis. See id. at Tables V-20-23, 26-27, 30-31.

²⁵⁶ Hearing Tr. at 23, 40-41 (Bitzer), 110 (Greenwald).

²⁵⁷ See Sections V.A and V.B, supra.

²⁵⁸ In 2010, subject imports oversold the domestic like product in *** of *** quarterly comparisons, or *** percent of the time, with respect to "A" products, and in *** of *** quarterly comparisons, or *** percent of the time, with respect to "B" products. See CR/PR at Tables V-20-23, 26-27, 30-31. In 2011, subject imports oversold the domestic like product in *** of *** quarterly comparisons, or *** percent of the time, with respect to "A" products, and in *** of *** quarterly comparisons, or *** percent of the time, with respect to "B" products. See id. at Tables V-20-23, 26-27, 30-31.

²⁵⁹ See Section V.A, supra.

²⁶⁰ CR at VI-5 n.4; PR at VI-2 n.4.

²⁶¹ Respondents argue that the domestic industry's cost-price squeeze is not attributable to subject import competition because it resulted from the domestic industry's declining average unit value of export sales and increased COGS, ***. Samsung's Prehearing Brief at 32; Samsung's Posthearing Brief at 9; LG's Posthearing Brief at 6. We reject respondents' argument for two reasons.

First, ***. CR at VI-1 n.2. ***.

Second, the reason that Whirlpool's costs increased in 2011 is irrelevant to our analysis of price suppression. The focus of our analysis is why Whirlpool was unable to increase its prices sufficiently to cover its increased costs.

²⁶² CR/PR at Table VI-1.

occurred between 2010 and 2011.²⁶³ Yet, subject import market share declined *** percentage points during this period,²⁶⁴ as did the incidence of subject import underselling.²⁶⁵

Second, explaining why the domestic industry was unable to pass on cost increases in higher prices during the period examined is complicated by the nature of the bottom mount refrigerator market. As detailed in sections V.C and D above, the bottom mount refrigerator market is characterized by an evolving array of models, many featuring new and attractive features, and aggressive price discounting calculated to stimulate sales. Consumers make purchasing decisions based on differing and subjective evaluations of the value of competing bottom mount refrigerator models. In that light, we find that the dynamics of the bottom mount refrigerator market are too complex and there are too many factors influencing the data for us to conclude on this record that subject imports prevented domestic producers from achieving price increases that otherwise would have occurred to a significant degree.

We find additional support for our conclusion that subject imports had no significant adverse price effects in the absence of confirmed allegations of lost sales and lost revenues. Petitioner provided two lost sales allegations involving ***.²⁶⁶ Petitioner alleges that as a result of this 2008 process, ***.²⁶⁷ Petitioners also allege that ***.²⁶⁸ ***.²⁶⁹ In addition, ***.²⁷⁰

Petitioner argues that ***.²⁷¹ It also claims that *** , given that the sales prices that *** reported for products 1B, 2B, 3B, 4B, 6B, and 7B, covering sales to *** , were *** lower than the sales prices that LG reported for products 1A, 2B, 3B, 4B, 6B, and 7B, covering sales to all customers.²⁷²

We find that price was not a significant factor in ***.²⁷³ Petitioner itself concedes in the petition that “there is no doubt that *** subject refrigerators to those of Whirlpool – ***.”²⁷⁴ ***.²⁷⁵ Although ***,²⁷⁶ this strategy is not unique to *** , but rather the strategy that any mass market appliance brand owner would be expected to follow. Moreover, *** provides a compelling non-price rationale for why it gave its business to *** that is consistent with other record evidence that *** bottom mount refrigerators have an edge over Whirlpool bottom mount refrigerators in terms of certain non-price factors.²⁷⁷

²⁶³ CR/PR at Table VI-1.

²⁶⁴ Memorandum INV-KK-046 (April 16, 2012) at Table IV-4.

²⁶⁵ Subject imports undersold the domestic like product in *** of *** quarterly comparisons in 2009, or *** percent of the time, in *** of *** quarterly comparisons in 2010, or *** percent of the time, and in *** of *** quarterly comparisons in 2011, or *** percent of the time. CR/PR at Tables V-20-21, 26-27, and 30-31.

²⁶⁶ Petition at 132; see also CR at V-90 n.58; PR at V-18 n.58.

²⁶⁷ CR at V-90; PR at V-18.

²⁶⁸ CR at V-90; PR at V-18.

²⁶⁹ CR at V-90; PR at V-18.

²⁷⁰ CR at V-91; PR at V-18. Petitioner ***.” Petitioner’s Posthearing Brief at 5.

²⁷¹ Petitioner’s Posthearing Brief at 5.

²⁷² Petitioner’s Prehearing Brief at 43-44.

²⁷³ CR at V-90; PR at V-18.

²⁷⁴ Petition at 132; see also Petitioner’s Final Comments at 8 (referencing “***”).

²⁷⁵ Even if *** , as petitioner claims, this is not evidence that price was a significant factor in *** . Volume discounts are a common practice in the bottom mount refrigerator market, CR at V-9-10; PR at V-5-6, and *** was among the four largest purchasers of bottom mount refrigerators. CR at II-6; PR at II-4. In any event, *** .

²⁷⁶ CR at V-90; PR at V-18.

²⁷⁷ See Section V.D.

Petitioner further alleged that in 2011, ***.²⁷⁸ ***.²⁷⁹ ***.²⁸⁰ ***.²⁸¹

Petitioner disputes *** contention that Whirlpool was not considered for a major portion of the *** contract due to its inability to produce *** by claiming that such refrigerators accounted for only *** units per year, or *** percent, of the sales volume at issue.²⁸² According to Whirlpool, the ***.²⁸³ ***.²⁸⁴

We find that price was not a significant factor in ***. As an initial matter, we find it credible that ***. Whirlpool did not produce jumbo bottom mount refrigerators and slim in door ice makers during the period examined. With respect to the portion of the contract that Whirlpool was invited to bid on, we find it significant that ***.²⁸⁵ Whirlpool claims that ***.²⁸⁶ Based on all the foregoing evidence, we find that price was not a significant factor in ***.

Finally, we observe that all but one of Whirlpool's lost revenue allegations were rejected by purchasers. Although 12 of 20 responding purchasers agreed that Whirlpool had lowered its prices, as alleged, and 10 of 21 responding purchasers agreed that LG or Samsung had lowered their prices on competing models, as alleged, only one responding purchaser agreed that Whirlpool had lowered its prices in response to lower subject import prices.²⁸⁷ Due to the prevalence of discounting and evidence that the price of a bottom mount refrigerator model declines over the life cycle of the model, as addressed in section V.C above, confirmation that Whirlpool lowered its prices on certain models is not evidence that subject import price competition caused Whirlpool to lower its prices.

For the foregoing reasons, we find that subject import price underselling was not significant during the period examined and that subject imports did not depress or suppress domestic like product prices to a significant degree.

D. Impact of the Subject Imports²⁸⁸

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

²⁷⁸ CR at V-91; PR at V-18-19.

²⁷⁹ CR at V-92; PR at V-18-19.

²⁸⁰ CR at V-92; PR at V-18-19. ***." Purchasers' Questionnaire Response of *** at Question III-28.

²⁸¹ CR at V-92; PR at V-18-19.

²⁸² Petitioner's Prehearing Brief at 46.

²⁸³ Petitioner's Posthearing Brief at 6; see also Petitioner's Prehearing Brief at 46-47.

²⁸⁴ Petitioner's Posthearing Brief at 6, Exhibit H. In ***" Id. We recognize that ***. See CR at V-90; PR at V-18. For the reasons discussed below, however, we find that ***. In addition, it is unclear whether ***.

²⁸⁵ CR at V-93; PR at V-18-19.

²⁸⁶ CR at V-92; PR at V-18-19. There also is evidence that ***. LG's Posthearing Brief at Appendix S.

²⁸⁷ CR at V-94; PR at V-18-19; CR/PR at Table V-37 (***).

²⁸⁸ In its final determinations, Commerce calculated weighted-average dumping margins of 0.00 to 15.41 percent for bottom mount refrigerators from Korea and 0.00 to 30.34 percent for bottom mount refrigerators from Mexico. 77 Fed. Reg. 17413 (March 26, 2012); 77 Fed Reg 17422 (March 26, 2012); CR at I-5; Memorandum from The Team to James Maeder, Ministerial Error Allegations in the final Determination of the Antidumping Duty Investigation on Bottom Mount Combination Refrigerator-Freezers from Korea, April 11, 2012, at 4; Memorandum from The Team to James Maeder, Ministerial Error Allegations in the final Determination of the Antidumping Duty Investigation on Bottom Mount Combination Refrigerator-Freezers from Mexico, April 11, 2012, at 6.

bearing on the state of the industry.”²⁸⁹ 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.”²⁹⁰

Between 2009 and 2011, most measures of the domestic industry’s performance improved. The domestic industry’s capacity increased throughout the period, and the industry’s production and rate of capacity utilization were higher in 2011 than in 2009, although they were down from 2010. Domestic industry capacity increased *** percent over the period examined, from *** units in 2009 to *** units in 2010 and *** units in 2011.²⁹¹ Domestic industry production increased from *** units in 2009 to *** units in 2010, before declining to *** units in 2011, a level that was still *** percent higher than in 2009.²⁹² Domestic industry capacity utilization followed a similar trend, increasing from *** percent in 2009 to *** percent in 2010, before declining to *** percent in 2011, a level that was still *** percentage points higher than in 2009.²⁹³

The domestic industry’s U.S. shipments increased *** percent during the period examined, but because apparent U.S. consumption increased by a much greater *** percent, the domestic industry’s share of apparent U.S. consumption declined.²⁹⁴ The industry’s U.S. shipments increased from *** units in 2009 to *** units in 2010 and *** units in 2011, while its share of apparent U.S. consumption declined from *** percent in 2009 to *** percent in 2010 and *** percent in 2011.²⁹⁵

Domestic industry employment and productivity were higher in 2011 than in 2009, although they were down from 2010. Domestic industry employment increased from *** production related workers (“PRWs”) in 2009 to *** PRWs in 2010, before declining to *** PRWs, a level that was still *** percent higher than in 2009.²⁹⁶ Domestic industry productivity in units per 1,000 hours increased from *** in 2009 to *** in 2010 before declining to *** in 2011, a level that was still *** percent higher than in 2009.²⁹⁷ Domestic industry hours worked increased from *** in 2009 to *** in 2010 before declining back to *** in 2011.²⁹⁸

The domestic industry’s value of U.S. shipments increased, and its net sales value was higher in 2011 than in 2009, although it was down from 2010. The value of the industry’s U.S. shipments increased by *** percent during the period, from \$*** in 2009 to \$*** in 2010 and \$*** in 2011, as the average unit value of U.S. shipments increased *** percent from \$*** in 2009 to \$*** in 2010 and \$***

²⁸⁹ 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.”).

²⁹⁰ 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).

²⁹¹ CR/PR at Table III-2.

²⁹² CR/PR at Table III-2.

²⁹³ CR/PR at Table III-2.

²⁹⁴ Memorandum INV-KK-046 (April 16, 2012) at Tables IV-8, C-1.

²⁹⁵ Memorandum INV-KK-046 (April 16, 2012) at Tables IV-7, 8.

²⁹⁶ CR/PR at Table III-7.

²⁹⁷ CR/PR at Table III-7.

²⁹⁸ CR/PR at Table III-7.

in 2011.²⁹⁹ The industry's net sales value increased from \$*** in 2009 to \$*** in 2010 before declining to \$*** in 2011, a level that was still *** percent higher than in 2009.³⁰⁰

The domestic industry's research and development ("R&D") expenses increased throughout the period examined, while its capital expenditures were much higher in 2011 than in 2009, after dipping slightly in 2010. Domestic industry R&D expenses increased *** percent during the period examined, from \$*** in 2009 to \$*** in 2010 and \$*** in 2011.³⁰¹ Domestic industry capital expenditures declined from \$*** in 2009 to \$*** in 2010 before increasing to \$*** in 2011, a level *** percent higher than in 2009.³⁰²

The domestic industry's financial performance, however, declined.³⁰³ The industry's operating income declined from \$*** in 2009, equivalent to *** percent of net sales, to a loss of \$*** in 2010, equivalent to -*** percent of net sales, and a loss of \$*** in 2011, equivalent to -*** percent of net sales.³⁰⁴ The industry's return on investment declined from *** percent in 2009 to -*** percent in 2010 and -*** percent in 2011.³⁰⁵

We find no causal connection between the subject imports and the domestic industry's declining financial performance for the following reasons. First, we have found that the increase in subject import volume and market share, although significant, did not displace a significant volume of domestic industry shipments from the U.S. market. That is because *** percent of the increase in subject import U.S. shipment volume between 2009 and 2011 consisted of four-door bottom mount refrigerators, which the domestic industry only introduced in the third quarter of 2010,³⁰⁶ and jumbo bottom mount refrigerators, which the domestic industry did not offer during the period examined.³⁰⁷ Thus, much of the increase in subject import volume and market share was spurred by the *** percent increase in demand for four-door and jumbo bottom mount refrigerators. Another significant proportion of the increase in subject import volume and market share between 2009 and 2010 resulted from ***.

Second, because the subject imports pervasively oversold the domestic like product by varying amounts, they could not have contributed significantly to declining domestic like product prices. Rather, domestic like product prices declined as the life cycle of domestically produced models progressed, and Whirlpool's need to cut prices in 2011 despite generally higher subject import prices partly reflects the qualitative superiority of subject imports.

²⁹⁹ Memorandum INV-KK-046 (April 16, 2012) at Tables IV-7, C-1.

³⁰⁰ Memorandum INV-KK-046 (April 16, 2012) at Table C-1.

³⁰¹ CR/PR at Table VI-5.

³⁰² CR/PR at Table VI-5.

³⁰³ We reject Samsung's argument that Whirlpool's deferred Energy Efficient Appliance Federal Tax Credits were the equivalent of cash and offset negative operating income margins. Samsung's Prehearing Brief at 48-50; Samsung's Posthearing Brief at A-46-47. Whirlpool could not use these credits to offset taxes on its bottom mount refrigerator operations during the period examined because these operations were largely unprofitable and thus owed no taxes. Hearing Tr. at 108 (Bitzer). Even if the credits could have been used, they would only be applied to income taxes and would not affect the operating results that are relevant for purposes of our analysis. CR at VI-10 n.7; PR at VI-3 n.7. That Whirlpool could theoretically use tax credits earned on bottom mount refrigerators to reduce taxes on other product lines is irrelevant to our analysis of the domestic industry producing bottom mount refrigerators.

³⁰⁴ CR/PR at Table VI-1.

³⁰⁵ CR/PR at Table VI-7.

³⁰⁶ CR/PR at Table V-22.

³⁰⁷ See footnote 171, *supra*.

Third, as noted above, the subject imports do not explain the domestic industry's inability to raise prices to cover rising costs, which corresponds closely to the decline in industry profitability. Neither the pricing nor the market share of the subject imports suggests that they caused the *** percent increase in the industry's COGS to net sales ratio between 2010 and 2011.³⁰⁸

Finally, Whirlpool's greatly increased R&D and capital expenditures during the period examined belie its contention that subject import competition resulted in the "****."³⁰⁹ To the contrary, ***, during the pendency of these investigations.³¹⁰ Unsurprisingly, one of the new models Whirlpool is on the verge of introducing is a 29 cubic foot bottom mount refrigerator, which will enable it to compete with LG and Samsung in the rapidly expanding jumbo segment of the bottom mount refrigerator market.³¹¹

In sum, we have found that the increase in subject import volume and market share, although significant, did not displace a significant volume of domestic industry U.S. shipments. We have also found no significant subject import price underselling and no significant price depression or suppression by reason of subject imports. Consequently, we find that the subject imports did not have a significant adverse impact on the domestic industry.

For all the foregoing reasons, we conclude that an industry in the United States is not materially injured by reason of imports of bottom mount refrigerators from Korea found to have been subsidized by the Government of Korea and sold in the United States at LTFV and imports of bottom mount refrigerators from Mexico found to have been sold in the United States at LTFV.

VII. NO THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

Section 771(7)(F) of the Tariff Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing 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."³¹² The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order is issued.³¹³ In making our determination, we consider all statutory threat factors that are relevant to these investigations.³¹⁴

³⁰⁸ Compare Memorandum INV-KK-046 (April 16, 2012) at Table IV-8; CR/PR at Tables V-20-23, 26-27,30-31 with CR/PR at Table VI-1.

³⁰⁹ CR at VI-12; PR at VI-3.

³¹⁰ CR at VI-5 n.5; PR at VI-2 n.5.

³¹¹ Hearing Tr. at 55 (Bitzer) ("{W}e made last year a decision, and we're launching now a 29-cubic foot. There is nothing magic about deciding to build a larger one. It's just do you get the economic returns.").

³¹² 19 U.S.C. § 1677(7)(F)(ii).

³¹³ 19 U.S.C. § 1677(7)(F)(ii).

³¹⁴ These factors are as follows:

(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,

Under section 771(7)(H) of the Tariff Act, the Commission may “to the extent practicable” cumulatively assess the volume and price effects of subject imports from all countries as to which petitions were filed on the same day if the requirements for cumulation in the material injury context are satisfied.³¹⁵ As detailed above, the requirements for cumulation in the material injury context are satisfied. There is no information on the record, and no party has argued, that the conditions of competition likely to confront subject imports from Korea and subject imports from Mexico, respectively, will likely differ to a significant degree in the imminent future. We therefore exercise our discretion to consider subject imports from Korea and Mexico on a cumulated basis for purposes of our threat analysis.

Although the domestic industry is in a vulnerable condition, having lost \$*** in 2011, we find that the domestic industry is not threatened with material injury by reason of subject imports. As an initial matter, the domestic industry’s vulnerability is tempered by the fact that domestic industry R&D expenses increased *** percent during the period examined, from \$*** to \$*** in 2011,³¹⁶ while domestic industry capital expenditures increased irregularly from \$*** in 2009 to \$*** in 2011, a level *** percent higher than in 2009.³¹⁷ These substantial expenditures reflect in part ***, including a 29 cubic foot jumbo bottom mount refrigerator.³¹⁸ Moreover, GE invested \$194 million in a new bottom

(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, . . .

(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).

19 U.S.C. § 1677(7)(F)(i). Statutory threat factor (VII) is inapplicable, as no imports of agricultural products are involved in these investigations.

³¹⁵ 19 U.S.C. § 1677(7)(H).

³¹⁶ CR/PR at Table VI-5.

³¹⁷ CR/PR at Table VI-5. These data do not include GE’s \$194 million investment in a new bottom mount refrigerator production facility in Lexington, Kentucky. CR at III-4; PR at III-2.

³¹⁸ CR at VI-5 n.4; PR at VI-2 n.4; Hearing Tr. at 55 (Bitzer).

mount production facility in Lexington, Kentucky, which commenced production in late March 2012.³¹⁹ These investments should enhance the competitiveness of the domestic industry going forward. We therefore find that subject imports have had no significant actual or 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.

We find that the increase in cumulated subject import volume and market share during the period examined, although significant, does not indicate the likelihood of substantially increased imports.³²⁰ As detailed above, we have found that increased subject imports did not displace a significant volume of domestic industry U.S. shipments because much of the increase was spurred by demand growth in segments either not served or underserved by the domestic industry and another significant portion resulted from ***. There is no evidence on the record that these trends will change in the imminent future. If anything, the domestic industry will be more competitive with subject imports going forward, given Whirlpool's introduction of its own jumbo bottom mount refrigerator model and GE's introduction of a new domestically produced line of bottom mount refrigerators that reportedly rival LG and Samsung's models for fit, feel, and finish. A witness for Home Depot, one of GE's largest customers, testified that GE's new domestically-produced bottom mount refrigerators models are "drop dead gorgeous" with thin wall technology to increase capacity and slim ice.³²¹ For this reason, Home Depot will probably replace one or two LG models with the new GE models on the floor of its retail stores.³²² In addition, subject import market share declined *** percentage points between 2010 and 2011.

We also find that excess capacity in Korea and Mexico, although significant, does not indicate the likelihood of substantially increased imports of the subject merchandise. Responding Korean producers reported excess capacity of *** units in 2011, equivalent to *** percent of apparent U.S. consumption that year, and project excess capacity of *** units in 2012.³²³ Responding Mexican producers reported excess capacity of *** units in 2011, equivalent to *** percent of apparent U.S. consumption, and project excess capacity of *** units in 2012 and *** units in 2013.³²⁴ Although responding Korean and Mexican producers reported significant excess capacity throughout the period examined, their excess capacity in 2011 coincided with a moderation in the rate of increase in subject import volume and a *** percentage point decline in subject import market share.³²⁵ Moreover, cumulated Korean and Mexico industry excess capacity will decline from 2011 levels in 2012 and 2013, according to responding Korean and Mexican producer projections. For these reasons, we do not find

³¹⁹ CR at III-4; PR at III-2; "GE Opens U.S. Fridge Factory," *supra*; Hearing Tr. at 181 (Baird).

³²⁰ Nothing in the record information concerning the nature of the subsidy programs suggests that our analysis of the other threat factors is invalid. Petitioner did not address the nature of the countervailable subsidies in the context of its threat argument.

³²¹ Hearing Tr. at 176 (Baird) ("We're the largest GE appliance retailer in the world."), 184 (Baird); Home Depot's Posthearing Brief at 13.

³²² Hearing Tr. at 181 (Baird).

³²³ CR/PR at Table VII-2. *** did not report projected 2013 data. *See* Foreign Producers' Questionnaire Response of ***, at question II-12. *** projects that it will possess excess capacity of *** units in 2013, down from excess capacity of *** units in 2011 and projected excess capacity of *** units in 2012. Foreign Producers' Questionnaire Response of ***, at question II-12.

³²⁴ Memorandum INV-KK-046 (April 16, 2012) at Table VII-4.

³²⁵ *See* Memorandum INV-KK-046 (April 16, 2012) at Tables IV-4, 8.

that the cumulated excess capacity of subject Korean and Mexican producers indicates a likelihood of significantly increased imports of subject merchandise.³²⁶

In addition, we find that imports of the subject merchandise are not entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices or increase demand for further imports. As detailed above, we have found that subject imports pervasively oversold the domestic like product during the period examined and neither depressed nor suppressed domestic like product prices to a significant degree. There is no information on the record indicating that this pattern of subject import overselling will change in the imminent future. To the contrary, both LG and Samsung implemented price increases to cover increased costs towards the end of the period examined.³²⁷

We find that inventories of subject imports in the United States and in Korea and Mexico do not indicate the likelihood of substantially increased subject imports. U.S. importers' end-of-period inventories of cumulated subject imports declined as a share of subject imports from *** percent in 2009 to *** percent in 2010 and *** percent in 2011 and as a share of U.S. shipments of subject imports from *** percent in 2009 to *** percent in 2010 and *** percent in 2011.³²⁸ A certain level of subject import inventories in the United States is to be expected, given that *** reported making a majority of their sales from inventory.³²⁹ No responding Korean or Mexican producer reported the ability or intention to switch production from other products to bottom mount refrigerators in response to changes in relative prices.³³⁰

We conclude that an industry in the United States is not threatened with material injury by reason of subject imports.

CONCLUSION

For all the foregoing reasons, we determine that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports of bottom mount refrigerators from Korea found to have been subsidized by the Government of Korea and sold in the United States at LTFV and imports of bottom mount refrigerators from Mexico found to have been sold in the United States at LTFV.

³²⁶ Responding Korean and Mexico producers project that *** of their total shipments will continue to be exported to the United States, as during the 2009-2011 period, although responding Mexican producers project that their focus on home and third country markets will increase in 2012 and 2013. Memorandum INV-KK-046 (April 16, 2012) at Table VII-4. Responding Korean producers report that exports to the United States as a share of total shipments will remain at around *** percent in 2012 and 2013, CR/PR at Table VII-2, while responding Mexican producers project that exports to the United States as a share of total shipments will decline from *** percent in 2011 to *** percent in 2012 and *** percent in 2013. Memorandum INV-KK-046 (April 16, 2012) at Table VII-4. Thus, the focus of subject Korean and Mexican producers on the U.S. market will likely decline in 2012 and 2013, on a cumulated basis, from the levels during 2009-2011 that we have found to be non-injurious.

³²⁷ Samsung's Posthearing Brief at A-42; LG's Posthearing Brief at Appendix H.

³²⁸ Memorandum INV-KK-046 (April 16, 2012) at Table VII-5. Cumulated subject import end-of-period inventories were lower in 2011 than in 2009 in absolute terms as well, after an uptick in 2010. They were *** units in 2009, *** units in 2010, and *** units in 2011. Id.

³²⁹ CR at II-22; PR at II-12.

³³⁰ See CR at VII-3 n.7, 4 n.9, 7 n.14, 8 n.15, 9 nn.16-17; PR at VII-3 nn.7, 9, 5 n.14, 15 nn.15-17. Electrolux reported ***. CR at VII-7 nn.13-14; PR at VII-5 nn.13-14.

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)
May 17, 2011	Commission’s preliminary determinations (76 FR 29791, May 23, 2011)
September 6, 2011	Commerce’s preliminary countervailing duty determination (76 FR 55044)
November 2, 2011	Commerce’s antidumping duty determinations (76 FR 67675, Korea; 76 FR 67688, Mexico)
November 2, 2011	Commission’s scheduling of its final phase investigations (76 FR 72440, November 23, 2011)
March 13, 2012	Commission’s hearing ¹
April 17, 2012	Commission’s vote
May 9, 2012	Commission’s determinations and views transmitted to Commerce

¹ A list of witnesses that appeared at the hearing 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--

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 with the exception of the Commission’s preliminary determinations notice are presented in app. A.

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, 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 2011. 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 have accounted for all U.S. production of bottom mount refrigerators in 2011. During the period of investigation, Whirlpool accounted for the vast majority of U.S. production of bottom mount refrigerators, and in 2011, accounted for *** percent of total reported U.S. production. At least six firms have reported importing bottom mount refrigerators from the subject countries since 2009. 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 2011, 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 2011, 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 four 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, Haier, and Viking. Sub-Zero, a relatively small volume producer, 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 March 26, 2012, Commerce published notices in the *Federal Register* setting forth its final determinations with regard to its antidumping investigation on bottom mount refrigerators from Korea and Mexico.⁶ The weighted-average dumping margins (in percent *ad valorem*), as reported by Commerce are summarized in the tabulation below:

Country	Dumping margin (<i>percent ad valorem</i>)
Korea	
Daewoo	0.00
LG Korea	15.41
Samsung Korea	5.16
All others	10.29
Mexico	
Electrolux Mexico	22.94
LG Mexico	30.34
Mabe	6.00
Samsung Mexico	15.95
All others	20.26
Source: <i>Notice of Final Determination of Sales at Less Than Fair Value and Negative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea</i> , 77 FR 17413, March 26, 2012; <i>Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From Mexico</i> , 77 FR 17422, March 26, 2012.	

⁶ *Notice of Final Determination of Sales at Less Than Fair Value and Negative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea*, 77 FR 17413, March 26, 2012; *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From Mexico*, 77 FR 17422, March 26, 2012

NATURE OF ALLEGED COUNTERAVAILABLE SUBSIDIES

On March 26, 2012, Commerce published a notice in the *Federal Register* setting forth its final determination with regard to its countervailing duty investigation on bottom mount refrigerators from Korea. In its notice, Commerce determined that the Government of Korea did provided countervailable subsidies to producers of bottom mount refrigerators in Korea.⁷ The net subsidy rates as reported by Commerce are provided in the tabulation below.

Country	Subsidy rate (percent ad valorem)
Korea	
Daewoo	12.90
LG Korea	0.30
Samsung Korea	2.46
All others	2.79
Source: <i>Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea: Final Affirmative Countervailing Duty Determination</i> , 77 FR 17410, March 26, 2012.	

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).

⁷ *Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 17410, March 26, 2012.

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.

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 8418.10.00⁸ 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.⁹

⁸ HTS subheading 8418.10 does not distinguish between top-mount, bottom mount, and side-by-side refrigerators. Its subheading title is “refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps, other than the air conditioning machines of heading 8415; parts thereof: Combined refrigerator-freezers, fitted with separate external doors . . .”.

⁹ Harmonized Tariff Schedule of the United States (2012).

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.¹⁰

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.

¹⁰ 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).¹¹ Bottom mount refrigerators are available in a range of depths (counter depth versus standard depth), widths (30, 33, or 36 inch), and capacities.¹² 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 door.

¹¹ Conference transcript, pp. 24 (Bitzer); Whirlpool petition, p. 14.

¹² 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 refrigerator doors are hinged to open as “French doors” to access one refrigerator compartment.¹³

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 refrigerator 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.¹⁴

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



Source: Whirlpool

¹³ 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.

¹⁴ 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 examined in the preliminary phase of these investigations. 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 an assembly line, and then are tested and packed for shipment.¹⁵

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.¹⁶

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.¹⁷

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.¹⁸

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.¹⁹

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.²⁰

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.²¹

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

¹⁵ Petition, p. 16.

¹⁶ Ibid.

¹⁷ Ibid., p. 17.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid., pp. 17-18.

²¹ Ibid., p. 18.

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.

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.²²

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,²³ 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, and (5) LED lighting.²⁴

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.²⁵ 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.”²⁶ 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.²⁷ Samsung also noted that “virtually all multi-door models are Energy Star rated.”²⁸

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,

²² Ibid, p. 19.

²³ Petition, p. 119.

²⁴ Conference transcript, p. 33 (Bitzer).

²⁵ DOE promulgates different energy efficiency standards for bottom mount, top mount, and side-by-side models. Petitioner’s postconference brief, Part II, Question 3.

²⁶ Petitioner’s postconference brief, Part II, Question 3.

²⁷ Petitioner’s postconference brief, Part II, Question 2.

²⁸ Samsung’s postconference brief, p. 31.

for whom “bigger is better.”²⁹ Respondents LG and Samsung stated that in order to meet the market 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.³⁰

***.³¹ ***.³² At the hearing in the final phase investigations, petitioner noted that it had “a vacuum panel, 27.4 bottom model in the market” in 2009 and 2010³³ and testified that it is “now launching a 29-cubic foot” model into the market.³⁴

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.³⁵ ***³⁶

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 lever 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.³⁷ LG argues that its icemaker is superior because it takes up less interior space than other models.³⁸ External ice and water dispensers are not typically available on two-door bottom mount refrigerators, whereas they are widely available on French door models.³⁹

²⁹ LG’s postconference brief, p.6.

³⁰ LG’s postconference brief, p.6; Conference transcript, p.105 (Herring); Respondent Samsung’s postconference brief, p. 32.

³¹ Samsung postconference brief, p. 31.

³² Petitioner’s postconference brief, Part II, Question 1.

³³ Hearing transcript, p. 292 (Bitzer).

³⁴ Hearing transcript, p. 54 (Bitzer).

³⁵ Ibid.

³⁶ Ibid.

³⁷ Samsung’s postconference brief, p. 35.

³⁸ LG’s postconference brief, p.31.

³⁹ Conference transcript, p. 102, (Herring).

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.⁴⁰ Petitioner also noted that LED lighting first appeared in refrigerators in Europe nearly a decade ago and that the “Koreans did not ‘invent’ this technology. There is no technical obstacle to Whirlpool’s ability to use LED lighting in its products.”⁴¹ Samsung noted that Whirlpool, Samsung, and LG all offer LED lighting.⁴²

DOMESTIC LIKE PRODUCT ISSUES

In the preliminary phase of these investigations, the petitioner contended that the Commission should find one domestic like product that is co-extensive with the scope of the investigations as identified by Commerce.⁴³ Petitioner argued 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 and final phase of these investigations, respondents LG and Samsung did not dispute the petitioner’s domestic like product definition.⁴⁴ Nonetheless, the Commission collected data regarding the top mount and side by side refrigerator U.S. market segments and requested that questionnaire recipients comment on the factors that the Commission generally

⁴⁰ Petitioner’s postconference brief, Part II, Question 1.

⁴¹ Ibid.

⁴² Samsung’s postconference brief, p. 36.

⁴³ Petitioner’s postconference brief, pp. 7-8.

⁴⁴ Samsung’s postconference brief, pp. 1-2; Conference transcript, p. 142 (Cunningham).

In the final phase of these investigations, respondent Electrolux argued that “French door refrigerators” and “conventional bottom mount refrigerators,” covered by the scope of these investigations, should be defined as separate domestic like products. Electrolux posthearing brief, pp. 2-9. Electrolux argued that French door refrigerators have different physical characteristics, producer and consumer perceptions, production processes, and prices than conventional bottom mount refrigerators. With regard to physical characteristics, it argued that French door models have external ice and water dispensers whereas conventional bottom mounts do not. With regard to producer and consumer perceptions, it argued that demand and sales for French door models exceeds those of conventional models and is rising whereas conventional models are decreasing. It also cited industry and retail literature that segments the refrigerator market into four not three segments with French door models constituting a separate fourth market segment. Finally, it cited different tooling necessary for the production of French door models and the generally higher prices charged to consumers for French door models. Ibid.

Respondents LG and Samsung did not advocate for a Commission finding that French door models and conventional bottom mount refrigerators should be defined as separate domestic like products. Both stated that the conventional bottom mount refrigerator market is less commercially significant to them as the French door refrigerator market. LG and Samsung reported that conventional refrigerators accounted for *** percent and *** percent of their 2011 sales volumes, respectively. LG posthearing brief, app. Q; Samsung posthearing brief, p. A-20.

Whirlpool argued that the Commission should not find that French door and conventional bottom mount refrigerators are separate domestic like products. It argued that the physical characteristics are the same for both models as each is interchangeable and used for the refrigeration of perishable food. With regard to production processes, Whirlpool argued that bottom mount manufacturer may easily switch production from a conventional model to a French door model using the same production equipment. With regard to producer and consumer perceptions, it argued that all bottom mount refrigerators are seen as within the premium market segment. Whirlpool posthearing brief, exh. 3, p. 11-8-11-10.

The Commission’s record does not contain a breakout of trade and financial trade for French door models and conventional models. During the draft questionnaire comment period, Electrolux did not raise the issue of whether conventional and French door bottom mount refrigerators should be defined as a separate domestic like products. Therefore, questionnaire recipients were neither asked to address the Commission’s traditional domestic like product factors nor requested to submit trade and financial data separately for these two subsets of the bottom mount refrigerator market.

considers when defining the domestic like product.⁴⁵

In the preliminary phase of these investigations, the Commission observed that the evidence on the record with regard to the proper definition of the domestic like product was mixed, but limited its definition of the domestic like product to bottom mount refrigerators. The Commission stated:

“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.”⁴⁶

In these final phase investigations, market participants were again asked to provide comments regarding the factors the Commission generally considers to determine its definition of the domestic like product. Market participants comments are provided below.⁴⁷

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.⁴⁸ In the preliminary phase investigations, 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 them 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

⁴⁵ 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.

⁴⁶ *Bottom Mount Combination Refrigerator-Freezers from Korea and Mexico, Inv. Nos. 701-TA-477 and 731-TA-1180-1181 (Preliminary)*, USITC Publication 4232, May 2011, p. 9.

⁴⁷ The Commission also requested that U.S. producers provide certain trade and financial data for their respective operations on top-mount refrigerators and side-by-side refrigerators. See Appendix C, tables C-2 and C-3.

⁴⁸ Responses to U.S. producer questionnaire, question II-11 of Whirlpool, GE, and Haier. ***. ***.

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. GE reiterated petitioner's observations and added that top mount models do not generally have an ice dispenser feature.⁴⁹

Of the six responding U.S. importers, five reported that top mount refrigerators did not have the same physical characteristics as bottom mount refrigerators. U.S. importers observed that top mount and bottom mount models have different configurations, ergonomics, features, and storage capacity than bottom mount refrigerators.⁵⁰

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.⁵¹ ***.⁵²

Of the six responding U.S. importers, three reported that top mount and bottom mount refrigerators do share common manufacturing facilities, production processes, or production employees. ***.⁵³

Interchangeability

Of the three responding U.S. producers, two of the three reported that top mount refrigerators were not interchangeable with bottom mount refrigerators.⁵⁴ ***.⁵⁵

Of the six responding U.S. importers, three reported that top mount refrigerators are interchangeable with bottom mount refrigerators. ***.⁵⁶

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. ***.⁵⁷ Of the six responding U.S. importers, five reported that top mount refrigerators were not perceived by customers as a similar product as bottom mount refrigerators, ***.⁵⁸

⁴⁹ Petitioners' postconference brief, pp. 7-8. U.S. producer questionnaire responses of Whirlpool and GE, question II-11.

⁵⁰ Responses to U.S. importer questionnaire, question II-8 of LG, Samsung, GE, Daewoo, Electrolux, and Whirlpool. ***.

⁵¹ Responses to U.S. producer questionnaire, question II-11 of Whirlpool, GE, and Haier. ***.

⁵² U.S. producer questionnaire responses of GE, Whirlpool, Haier, and Viking, question II-11; Petitioners' postconference brief, pp. 7-8.

⁵³ Responses to U.S. importer questionnaire, question II-8 of LG, Samsung, GE, Daewoo, Electrolux, and Whirlpool.

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

⁵⁵ U.S. producer questionnaire responses of GE and Whirlpool, question II-11; Petitioners' postconference brief, pp. 7-8.

⁵⁶ Responses to U.S. importer questionnaire, question II-8 of LG, Samsung, GE, Daewoo, Electrolux, and Whirlpool.

⁵⁷ Responses to U.S. producer questionnaire, question II-11 of Whirlpool, GE and Haier.

⁵⁸ Responses to U.S. importer questionnaire, question II-8 of LG, Samsung, GE, Daewoo, Electrolux, and Whirlpool.

Channels of Distribution

All of the three responding U.S. producers and five of the six responding U.S. importers reported that top mount refrigerators shared the same channels of distribution as bottom mount refrigerators. Petitioner and respondents stated that ***.⁵⁹

Price

All of the three responding U.S. producers and six responding U.S. importers reported that bottom mount refrigerators are ***.⁶⁰ Average unit values of U.S. commercial shipments of top mount refrigerators were \$*** in 2011 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.⁶¹ In the preliminary phase of these investigations, petitioners argued 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 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 side-by-side model because in a bottom mount model, the more often used refrigerator compartment is entirely at eye level whereas with a side-by-side refrigerator a user must bend down to examine lower refrigerator shelves; and (2) a bottom mount model is thermodynamically superior to a side-by-side model because cold air descends thereby giving the bottom mount freezer compartment a more efficient cooling mechanism than the side-by-side model. GE echoed petitioner's observations.⁶²

Of the seven responding U.S. importers, four reported that side-by-side refrigerators did have the same physical characteristics as bottom mount refrigerators. Although citing that side-by-side 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 freeze food. Three firms reported that side-by-side refrigerators did not have the same physical characteristics and emphasized the difference in configuration, capacity, and features.⁶³

⁵⁹ Responses to U.S. producer questionnaire, question II-11 of Whirlpool, GE and Haier; Responses to U.S. importer questionnaire, question II-8 of LG, Samsung, GE, Daewoo, Electrolux, and Whirlpool. ***.

⁶⁰ Ibid.

⁶¹ Responses to U.S. producer questionnaire, question II-13 of Whirlpool, GE, Viking, and Haier.

⁶² Petitioner's postconference brief, pp. 7-8. U.S. producer questionnaire response of GE & Whirlpool, question II-13.

⁶³ Responses to U.S. importer questionnaire, question II-12 of Daewoo, Electrolux, LG, Samsung, GE, Fisher & Paykel, and Whirlpool.

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.^{64 ***.}⁶⁵

Of the seven responding U.S. importers, five reported that side-by-side and bottom mount refrigerators do share common manufacturing facilities, production processes, or production employees.
***.⁶⁶

Interchangeability

Of the four responding U.S. producers, three reported that side by side refrigerators were not interchangeable with bottom mount refrigerators.^{67 ***.}⁶⁸

Of the seven responding U.S. importers, four reported that side-by-side refrigerators are not interchangeable with bottom mount refrigerators.
***.⁶⁹

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 ***.⁷⁰

Of the seven responding U.S. importers, six reported that side-by-side refrigerators were not perceived by customers as a similar product as bottom mount refrigerators, ***.⁷¹

Channels of Distribution

All of the four responding U.S. producers and seven responding U.S. importers reported that side-by-side refrigerators shared the same channels of distribution as bottom mount refrigerators. ***.⁷²

⁶⁴ Responses to U.S. producer questionnaire, question II-13 of Whirlpool, GE, Viking, and Haier. ***.

⁶⁵ U.S. producer questionnaire responses of Haier and Viking, question II-13.

⁶⁶ Responses to U.S. importer questionnaire, question II-12 of Daewoo, Electrolux, LG, Samsung, GE, Fisher & Paykel, and Whirlpool.

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

⁶⁸ U.S. producer questionnaire responses of GE and Whirlpool, question II-11; Petitioners' postconference brief, pp. 7-8.

⁶⁹ Responses to U.S. importer questionnaire, question II-12 of Daewoo, Electrolux, LG, Samsung, GE, Fisher & Paykel, and Whirlpool.

⁷⁰ Responses to U.S. producer questionnaire, question II-13 of Whirlpool, GE, Viking, and Haier.

⁷¹ Responses to U.S. importer questionnaire, question II-12 of Daewoo, Electrolux, LG, Samsung, GE, Fisher & Paykel, and Whirlpool.

⁷² Responses to U.S. producer questionnaire, question II-13 of Whirlpool, GE, Viking, and Haier; Responses to U.S. importer questionnaire, question II-12 of Daewoo, Electrolux, LG, Samsung, GE, Fisher & Paykel, and Whirlpool.

Price

All of the four responding U.S. producers and seven responding U.S. importers reported that bottom mount refrigerators are generally higher priced than side-by-side refrigerators.⁷³ In the preliminary phase of these investigations, 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.⁷⁴ Average unit values of U.S. commercial shipments of side-by-side refrigerators were \$*** in 2011 compared to \$*** for U.S. commercial shipments of bottom mount refrigerators.

⁷³ Responses to U.S. producer questionnaire, question II-13 of Whirlpool, GE, Viking, and Haier.

⁷⁴ 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. Whirlpool sells its bottom mount refrigerators under several different brands, each designed for somewhat different customers.³ Producers and importers sell bottom mount refrigerators to a national market.

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 an economic, not a technological, decision.⁴ Respondents described features as important for consumers, but added that preferred features do not necessarily cost more.⁵

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.⁶ LG added that it was not aware of two-door product that contains ice and water dispensers, and that two-door models are typically only available in smaller sizes (e.g., 30 and 33 inch widths).⁷ LG stated that its sales of 2-door bottom mount refrigerators were *** percent of its U.S. sales in 2011.⁸ Similarly, Samsung indicated that 94 percent of its bottom mount refrigerator sales were in the multi-door segment, and that the two-door segment was “stagnant.”⁹ Petitioner stated that Association of Home Appliance Manufacturers’ data showed that during the 2009-2011 period, two-

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

² Conference transcript, p. 77 (Bitzer).

³ Hearing transcript, p. 100 (Bitzer). Electrolux described itself as a relative latecomer to the market, and also selling product under multiple brands aimed at different customers. Hearing transcript, p. 257 (Jaffe).

⁴ Conference transcript, pp. 34, 59-60 (Bitzer). Home Depot agreed with the characterization of features as “not rocket science.” Conference transcript, p. 128.

⁵ For example, see hearing transcript, pp. 162-164 (Seagriff).

⁶ Conference transcript, pp. 100-102 (Herring). Home Depot agreed that the two-door segment was a small part of the overall bottom mount refrigerator market. Hearing transcript, p. 179 (Baird).

⁷ Hearing transcript, p. 166 (Herring).

⁸ Posthearing brief of LG, appendix Q.

⁹ Conference transcript, p. 117 (Politeski). In its prehearing brief, Samsung added that its shipments of two-door bottom mount refrigerators had fallen from *** units in 2009 to *** units in 2011, attributing the fall to an inability to compete with Whirlpool’s “rock-bottom” prices for two-door product. Prehearing brief of Samsung, p. 6. At the hearing, it described targeting the large French-door segment as an attempt to fill an unmet consumer “needs” in a segment in which it alleged that Whirlpool does not compete. Hearing transcript, pp. 152-156 (Dexter). Home Depot described Whirlpool's new 29 cubic foot product as not using vacuum panels, and thus taking up more space in order to generate capacity. It surmised that Whirlpool's new large model will not be competitive with LG and Samsung models that use vacuum panels. It added that Whirlpool has set the MAP on its new 29 cubic foot model \$200-300 lower than comparable LG and Samsung models. Posthearing brief of Home Depot, p. 6.

door bottom mount refrigerators comprised between 14 and 24 percent of the U.S. bottom mount refrigerator market in the United States. Petitioner added that it competed with subject imports in this market segment.^{10 11}

Additionally, an economic consultant for respondents stated 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 described that this part of the market accounted for 80 percent of the increase in subject import volume.¹² Similarly, Samsung described capacity as the focus of recent marketing for bottom mount refrigerators,¹³ and ***.¹⁴ However, Whirlpool, while conceding that LG and Samsung have led a recent move toward larger bottom mount refrigerators, described the “heart of the market” as product falling within a 19.5 to 27.4 cubic foot range.¹⁵

Innovation Leaders

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.¹⁶ 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.¹⁷

Purchasers were more likely to describe LG and Samsung as “innovation leaders” (defined as firms that initiate technological or quality improvements in the bottom mount refrigerator market since January 1, 2009) than Whirlpool. Eleven purchasers named LG, ten named Samsung, three named Whirlpool (with *** naming Whirlpool’s KitchenAid brand in particular), and one named GE as innovation leaders. Those naming LG described LG’s slim in-door icemaker, tall dispenser, larger capacity models, smart diagnosis, LED lighting, and French door configuration. Those naming Samsung listed Samsung’s four-door products, touch-screen displays, twin cooling, freezer-door release technology, larger capacity, and LED lighting. Those naming Whirlpool listed better quality, design, and features.

¹⁰ Petitioner’s posthearing brief, p. III-15.

¹¹ ***.

¹² Conference transcript, p. 135 (Klett). Home Depot agreed. Hearing transcript, p. 180(Baird).

¹³ Hearing transcript, pp. 272-273 (Seagriff).

¹⁴ Prehearing brief of Samsung, p. 8.

¹⁵ Hearing transcript, p. 28 (Bitzer).

¹⁶ Conference transcript, p. 13 (Cunningham). For example, Samsung described introducing a May 2010 four-door model with a drawer that could refrigerate or freeze at the owner’s option. It added that Whirlpool’s September 2010 four-door model had lower capacity and a drawer that could only refrigerate, not freeze. Samsung prehearing brief, p. 10. Other examples of respondents’ allegations are in the hearing transcript at pp. 170-173 (Herring) and pp. 178-179 (Baird).

¹⁷ Conference transcript, pp. 22, 26 (Bitzer), and p. 126 (Baird). Samsung entered the bottom mount refrigerator market in 2007. Conference transcript, p. 113 (Politeski).

Market studies

Questionnaire respondents were asked to submit market studies on “French door” bottom mount refrigerators. These studies include discussions of consumers switching from side-by-side refrigerators to French door refrigerators, rankings of various bottom mount refrigerators by brand, and discussions of the features that consumers find important in French door refrigerators. A summary of these submissions is presented in Appendix D.

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.¹⁸ 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. Home Depot stated 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.¹⁹ Not all retailers carry all manufacturers’ brands; for example, Lowe’s does not carry LG, and Home Depot does not carry Samsung.²⁰

**Table II-1
Bottom mount refrigerators: U.S. producers’ and U.S. importers’ U.S. shipments of subject product, by channels of distribution, 2009-11**

* * * * *

U.S. Purchasers

Sixteen purchasers responded to Commission questionnaires. Two (***) are owned by (***). Another, ***, is owned by ***, which also submitted a purchaser’s questionnaire. Most purchasers are not related to importers or exporters of subject or nonsubject product,²¹ and none were related to any producers of bottom mount refrigerators. Thirteen purchasers indicated they had marketing/pricing knowledge of domestic bottom mount refrigerators, eleven of Korean product, ten of Mexican product and three of nonsubject countries’ product.²² *** purchasers (***) that could answer the question) reported purchasing bottom mount refrigerators from more than one supplier and/or country source.

Thirteen purchasers are retailers, three are distributors, and one, ***. Eleven purchasers do not compete with their suppliers, but three do. ***.

¹⁸ 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).

¹⁹ Conference transcript, p. 123 (Baird). Home Depot did not name the other large retailers that it discussed.

²⁰ Hearing transcript, pp. 256-257 (Jovais).

²¹ ***. None of these firms submitted importer questionnaires in the final phase of these investigations.

²² ***.

The responding purchasers represent approximately *** percent of U.S. consumption of bottom mount refrigerators in 2011.²³ Four of those purchasers, ***, represent 77.5 percent of U.S. consumption in 2011, with each purchasing at least *** units in 2011. ***. Of the remaining purchasers, ***, *** purchased between *** units in 2011, and the rest purchased between *** units in 2011.²⁴

Most purchasers keep at least some inventories of bottom mount refrigerators, and make sales from their inventories, but not all do. Thirteen purchasers keep inventories of bottom mount refrigerators, with *** commenting that “customers will not go without a refrigerator.” Six purchasers reported inventories of *** percent of sales while *** reported inventories of *** percent of sales.²⁵ However, three purchasers (***) do not keep inventories. Home Depot explained that inventory is held by its suppliers. Whirlpool added that Home Depot purchases units from the manufacturer after the sale is made to the consumer.²⁶ Samsung described such purchasers as the exception rather than the rule, stating that for *** percent of the market, retailers purchase inventory, hold it, sell it, and then arrange for delivery and installation.²⁷

Eleven purchasers sold their bottom mount refrigerators to consumers out of their own inventory, while three (the three above that do not keep inventories) ordered from their suppliers to supply customer purchases. Two (***) did both. Whirlpool explained that the invoice prices for its purchasing customers that do not keep inventories reflect the higher expense Whirlpool incurs in delivering to a home rather than having the purchaser pick up the product at Whirlpool’s warehouse.²⁸

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, U.S. bottom mount refrigerator 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 some exports and small 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.

²³ ***.

²⁴ Whirlpool described some smaller retailers as banding together in buyers’ groups in order to make purchases. Hearing transcript, pp. 122-123 (Reinke and Bitzer). Samsung described itself as not focusing on smaller retailers due to an expectation of large volume rebates from those retailers, more burdensome inventory requirements, more costly logistics, Whirlpool’s discounts for those retailers, and the cost of additional sales staff. Samsung posthearing brief, p. A-13. However, Whirlpool stated that it competed with subject imports in its negotiations with most major buying groups between 2009 and 2011. Petitioner’s posthearing brief, p. III-5.

²⁵ Whirlpool described ownership of product passing from it to the retailer when the risk of the product is transferred, e.g., when the product leaves Whirlpool’s dock for purchasers that pick up product at Whirlpool, or when the product leaves Whirlpool’s delivery truck for purchasers that have the product delivered to them. Hearing transcript, p. 55 (Bitzer).

²⁶ Petitioner’s posthearing brief, p. III-3.

²⁷ Posthearing brief of Samsung, p. A-28.

²⁸ Hearing transcript, p. 67 (Bitzer).

Industry capacity

U.S. capacity utilization rose in 2010 from 2009 levels, before falling back in 2011. U.S. capacity was relatively stable over 2008 to 2010, increasing *** 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 2012.²⁹

Among U.S. producers, *** described changes in the product range or marketing of bottom mount refrigerators since January 1, 2009 as consisting of numerous new products and features including 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, noting that ***.

*** stated that they had not experienced any difficulty in supplying customers of bottom mount refrigerators since January 1, 2009.

Alternative markets

Exports comprised a little over *** percent of U.S. producers' shipments of bottom mount refrigerators in 2009 and 2011, but reached a level over *** percent in 2010.

Inventory levels

U.S. producers' inventories fell in 2011 from 2010 levels, and generally ranged between *** and *** percent of total shipments over 2009-11.

Production alternatives

Among U.S. producers, ***.

Tax credits

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 ***.³⁰

No importers received this credit, which is for U.S. producers. However, *** described the credit as providing Whirlpool a subsidy of as much as \$225 per refrigerator, leading to Whirlpool engaging in "somewhat predatory" pricing behavior.

Subject Imports

*** had imported from both Korea and Mexico since January 1, 2009. Analysis of their answers to questions that could apply to their supply from both Korea and Mexico, as well as from nonsubject

²⁹ Conference transcript, p. 128 (Baird), and hearing transcript, p. 181 (Baird).

³⁰ ***. ***.

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, 2009. *** stated that more aggressive marketing along with larger product offerings had driven the market toward providing more models with external ice and water dispensers. *** stated that it had begun shipping bottom mount refrigerators ***. *** cited its new ***. *** described introducing new models such as ***. *** indicated that product mix was continually changing due to the introduction of models with new features.

When asked if they had experienced any difficulty in supplying customers of bottom mount refrigerators, *** stated that they had not. However, *** stated ***, and unexpectedly high sales at retailers had caused some periodic supply issues. *** stated that it had ***. *** indicated that a 2009 shortage of compressors had caused supply difficulties for its bottom mount refrigerators.

Korea

Based on available information, Korean producers have the ability to respond to changes in demand with moderate-to-large 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 2009 to 2010 (before the more recent capacity reduction), and whether they would switch to or from other production alternatives. Korean capacity utilization is only moderate-to-high after its recent fall. Inventories are very low, but there are substantial alternative export markets.

Industry capacity

Korean capacity utilization rose from approximately *** percent in 2009 to almost *** percent in 2010 before falling back to under *** percent in 2011. Overall Korean capacity rose over *** percent from 2009 levels to 2010 levels, before falling over *** percent in 2011. The reduction in Korean capacity is due to *** reducing its capacity to produce bottom mount refrigerators in order to produce ***. ***. *** stated that it would ***.

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

Alternative markets

Over 2009-11, 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 higher than shipments to U.S. markets in 2009 and 2010, but fell to less than shipments to the U.S. market in 2011.

Production alternatives

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

Inventory levels

Korean producers' inventories represent a small share of Korean production, never exceeding *** percent over 2009 to 2011.

Mexico

Based on available information, Mexican producers have the ability to respond to changes in demand with moderate-to-high changes in the quantity of shipments of bottom mount refrigerators to the U.S. market. Mexican producers' ability to respond to demand changes depends in part on whether they can again increase capacity, as they did from 2009 to 2011, and whether they would switch to or from other production alternatives. Mexican capacity utilization is moderately low. Inventories are also low, and most shipments go to the United States.

Industry capacity

Mexican capacity utilization rose from approximately *** percent from 2009 to 2010 but then fell to almost *** percent in 2011. Overall Mexican capacity rose by over *** percent from 2009 levels to 2011 levels.

Alternative markets

Mexican exports to the United States accounted for almost *** percent of total Mexican shipments over 2009 to 2011. Mexican home market shipments never accounted for more than *** percent of total shipments.

Production alternatives

Mexican producers reported that they ***.³¹

Inventory levels

Mexican producer inventories were a small part of total shipments over 2009 to 2011, never exceeding *** percent.

Nonsubject Imports

Nonsubject imports accounted for a small share of the U.S. market over 2009 to 2011, and mostly came from China, Australia, and Thailand. However, nonsubject imports did rise to 3.4 percent of U.S. consumption in 2011 (***), up from 1.0 percent in 2009 and 0.7 percent in 2010. More information on nonsubject imports is available in part IV.

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 moderately small 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. Most market participants reported low substitutability between bottom mount refrigerators and other types of refrigerators, with price changes in substitutes rarely affecting the prices of bottom mount refrigerators.

³¹ ***

End Uses

Producers, importers and purchasers generally described the end uses of bottom mount refrigerators as residential food and beverage refrigeration (and dispensing of ice and water); however, several purchasers also mentioned sales to homebuilders and remodelers.

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 other freestanding refrigerators had “medium” substitutability with bottom mount refrigerators, and separate 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, with *** describing purchasers as making decisions about their preferred refrigerator type without sensitivity to the prices of potential substitutes. *** added that the prices of top mount and side-by-side refrigerators had been declining.

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. On the other hand, *** stated that prices of the three refrigerator types would tend to “stay in line” with each other. In addition, in its preliminary-phase questionnaire, *** 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 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.

Among purchasers, seven stated that there are no substitutes for bottom mount refrigerators, while eight stated that there were, naming top mount and side-by-side refrigerators. However, only one of these purchasers (***) stated that changes in the price of a substitute (side-by-side refrigerators) had affected the price of bottom mount refrigerators, citing “aggressive” promotional pricing.³² On the other hand, *** described bottom mount refrigerators and other refrigerators as different markets. *** described the prices of all refrigerators as having risen.

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

³² Six purchasers stated that changes in the price of the substitute had not affected the price for bottom mount refrigerators, and the rest did not answer the question.

compartment.³³ 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.³⁴ 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.³⁵ 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.³⁶

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.³⁷ At the hearing, Home Depot elaborated that many appliances now sell on a “fashion” basis, and that Whirlpool had not been adept at keeping its bottom mount refrigerators fashionable.³⁸ However, Whirlpool characterized consumers’ decisions as being driven by the relative values of different products, by which it means perceptions of quality, style, and features that are available at different price points.³⁹

Additionally, LG described refrigerator demand as falling into two categories: replacement (or “distressed”) and upgrade (or “discretionary”) 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.⁴⁰

Business Cycles

Many market participants described the U.S. bottom mount refrigerator market as subject to unique business cycles, especially the emphasis on holiday promotional periods such as “Black Friday.”⁴¹

³³ Conference transcript, pp. 24, 26 (Bitzer).

³⁴ 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).

³⁵ Conference transcript, p. 115 (Politeski).

³⁶ Petitioner’s postconference brief, answers to ITC question 1. Whirlpool further elaborated that features such as vacuum panels, LED lighting, and linear compressors had not been introduced exclusively by Korean producers. Hearing transcript, pp. 72-73 (Bitzer).

³⁷ Conference transcript, pp. 128-130 (Baird). In its posthearing brief, Home Depot described this “fit, finish, and feel” as not necessarily costing more to the manufacturer, but nonetheless preferred by consumers. See Home Depot posthearing brief, p. 4. Similarly, Samsung stated that different manufacturers may add the same feature in different ways, making the value of that feature vary depending on the design and manner of installation. Samsung posthearing brief, p. 12.

³⁸ Hearing transcript, p. 264 (Baird).

³⁹ Petitioner’s prehearing brief, p. 19.

⁴⁰ Conference transcript, p. 109 (Herring), and hearing transcript, pp. 173-174 (Herring).

⁴¹ LG attributed aggressive promotional pricing at retail as largely due to weak demand conditions in the U.S. economy. Prehearing brief of LG, p. 48.

Home Depot explained that promotional periods for appliances often focus on holidays when a husband and wife will be able to shop together.⁴²

Two producers and three importers indicated that the bottom mount refrigerator industry is subject to distinctive business cycles or conditions of competition, with firms noting seasonal (e.g., higher spring and summer demand) 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. However, it noted some improvement in its sales in 2011. *** 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. *** noted increased demand in summer months (while adding that this increase was true for all refrigerators). *** also described peak demand for refrigerators as being in the Spring and Summer months. *** indicated that bottom mount refrigerator demand was affected by the “Cash for Appliances” program⁴³ (described below) in 2010, and by retailer pressure for promotions in 2011 in order to match 2010 comparable store sales. *** described demand for multi-door bottom mount refrigerators increasing over 2008 to 2010 even as demand for other refrigerators fell. It attributed this increase in demand to ***.⁴⁴ However, three importers stated that the bottom mount refrigerator market is not subject to distinctive business cycles.

Nine purchasers described the U.S. bottom mount refrigerator market as not subject to distinctive business cycles, while seven stated that it was. Among those seven, *** indicated that the bottom mount refrigerator market had a business cycle centered around promotional holidays like Black Friday, the Fourth of July, and Memorial Day. *** described holiday promotions as running during a holiday and for the two weeks prior. *** also named the spring and summer as peak months for bottom mount refrigerator demand. *** noted that appliance sales generally follow the overall economy and especially housing starts, but that bottom mount refrigerator sales had been growing recently due to increased popularity with consumers.

Producers and importers were also asked if there had been any changes in conditions of competition since January 1, 2009. *** producers⁴⁵ 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.⁴⁶ Three importers also described changes, with *** noting that features were constantly changing and *** indicating that Whirlpool's receipt of the Manufacturer's Energy Efficient Appliance Credit (described below) had increased competitive pressure in the market. *** described cycles of innovation in the bottom mount refrigerator market as shortening, with Whirlpool unable to introduce competitive products.⁴⁷ *** had not observed any changes in conditions of competition.

Seven purchasers had not seen any changes in conditions of competition since January 1, 2009, while eight had. Among those eight, *** described more holiday sales periods. *** described increased promotional sales with higher discounts, although *** added that this phenomenon was true for all appliances and not just bottom mount refrigerators. *** indicated that there were more bottom mount refrigerator manufacturers supplying a wider range of products than before. *** indicated that more

⁴² Hearing transcript, p. 207 (Baird).

⁴³ LG also attributed increased 2010 consumption to the cash for appliances program, but added that demand faltered in the second half of 2010 with the expiration of the program. Prehearing brief of LG, p. 6.

⁴⁴ See ***.

⁴⁵ ***.

⁴⁶ 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).

⁴⁷ See ***.

home centers had entered the appliance market without concern for making a “legitimate” profit. *** described product features and benefits as a driver of sales.

Cash for Appliances

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 Star qualified appliances.⁴⁸ 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.⁴⁹

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.⁵⁰ Respondents stated that the recession has had an effect on bottom mount refrigerator sales, which would likely be even higher but for the recession.⁵¹ Nonetheless, LG described bottom mount refrigerator demand as the one bright spot in refrigerator demand generally over recent years. LG added that among bottom mount refrigerators, demand for two-door models was down while demand for French door models was up.⁵²

Among producers, *** reported that U.S. demand for bottom mount refrigerators had increased since January 1, 2009, citing a substantial 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 slow economy and decrease in “premium” house construction..

Four importers reported increased U.S. demand since January 1, 2009. In its preliminary phase questionnaire, *** 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 stated that Whirlpool was not heavily present in this market until 2009. *** described demand as increasing due to improvements⁵³ in bottom mount refrigerators. *** added that lower prices were fueling increased demand. *** attributed demand increases to changing consumer preferences (“fads”). *** described decreased demand due to the general economic downturn and low prices, respectively. In its prehearing

⁴⁸ See http://www1.eere.energy.gov/recovery/appliance_rebate_program.html.

⁴⁹ Conference transcript, p. 144 (Cunningham).

⁵⁰ Conference transcript, p. 27 (Bitzer). New housing starts remain at near-historic lows. There were 630,000 new housing starts in 2011, higher than in 2009 and 2010, but much lower than at any time since data collection began (1959). The February 2012 Blue Chip consensus forecast is for *** housing starts in 2012. By comparison, new housing starts were 2.1 million in 2005 and 1.5 million in 1959. See http://www.census.gov/construction/nrc/pdf/quarterly_starts_completions.pdf and <http://www.census.gov/const/startsan.pdf>.

⁵¹ Conference transcript, p. 179 (Cunningham and Klett).

⁵² Hearing transcript, p. 167 (Herring).

⁵³ For ***, these improvements came in features, style, design, and convenience; for ***, the improvements came in terms of size.

brief, LG added that it expects (based on outside forecasts among other sources) that U.S. demand for refrigerators will grow modestly in the near future.⁵⁴

Twelve purchasers reported increased U.S. demand for bottom mount refrigerators since January 1, 2009. Most purchasers cited consumer preference as the reason for the increase, although three cited innovative features and/or styling. One purchaser described flat demand due to general economic conditions (sales up in 2010 and down in 2011).

Producers and importers were also asked to describe demand trends in non-U.S. markets. Among U.S. producers, *** described a decrease in demand outside the United States, citing the slow economy and financial difficulties in Europe. *** indicated that demand outside the United States had fluctuated, adding that consumer preferences differ by market, so that foreign demand was affected by the business cycle and housing market in export markets. Among U.S. importers, four reported an increase in demand outside the United States. These importers generally cited the same reasons as increases in demand in the United States: improved product and consumer preferences. *** described decreasing foreign demand due to lower prices.

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 is in the moderate-to-high range. This degree of substitution 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.⁵⁵ 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.⁵⁶

Lead Times

In general, both producers and importers reported short lead times for product from inventory, with longer lead times for product coming from Korea than for product coming from the United States or Mexico.⁵⁷ *** reported that the majority of their sales were from inventory, while *** reported that the majority of their sales were produced to order.

⁵⁴ Prehearing brief of LG, p. 71.

⁵⁵ Conference transcript, p. 30 (Bitzer). In its prehearing brief, petitioner submitted an economic analysis that concluded that retail sales of particular bottom mount refrigerators increase substantially when it is discounted or when features are added to a model at a particular price point. Petitioner's prehearing brief, p. 17 and exhibit 2.

⁵⁶ Conference transcript, pp. 111 (Herring) and 113-114 (Politeski). Also at the conference, Home Depot stated that a large number of consumers for larger bottom mount refrigerators do not worry about price differences as large as three hundred dollars per unit. Conference transcript, p. 184 (Baird).

⁵⁷ ***.

Factors Affecting Purchasing Decisions

The most often cited top three factors firms consider in their purchasing decisions for bottom mount refrigerators were price (ten firms),⁵⁸ quality (six firms), availability/reliability (five firms), product features/innovation (four firms), consumer demand (four firms), and value/profitability (four firms), as shown in table II-2.

Table II-2
Bottom mount refrigerators: Ranking of factors used in purchasing decisions as reported by U.S. purchasers

Factor	Number of firms reporting		
	First	Second	Third
Consumer demand	4	0	0
Price	3	4	3
Product features/innovation	3	1	0
Availability/reliability of supply	1	2	2
Value/profitability	1	2	1
Fit, finish, feel	1	0	0
Traditional supplier	1	0	0
Quality ¹	0	1	5
Promotions/discounts	0	1	1
Brand	0	1	0
Product performance	0	1	0
U.S. supplier	0	1	0
Business support	0	0	2
<p>¹ Purchasers defined quality as including fit, finish, and feel (named by four purchasers ***), service network, historical need for repair, consumer feedback, ratings by <i>Consumer Reports</i> magazine, features, and environmental impact.</p> <p>Note.— firms that named more than three factors named availability, consumer demand, supplier reputation, lead times, and business support.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>			

Fourteen purchasers reported that they only “sometimes” purchase the lowest-priced product for their purchases, *** reported that it “usually” does so, and *** reported that it “always” does so.

Importance of purchase factors

Purchasers were asked to rate the importance of 18 factors in their purchasing decisions (table II-3). The most important factors were availability, price, supplier reliability, and product consistency.

⁵⁸ In addition to these purchasers, producer Whirlpool stated that the scale of the discounts in the bottom mount refrigerator market indicated that price was a key determinant of sales. Hearing transcript, p. 30 (Bitzer).

Table II-3**Bottom mount refrigerators: Importance of purchase factors, as reported by purchasers**

Factor	Very important	Somewhat important	Not important
	<i>Number of firms responding</i>		
Availability	15	0	0
Delivery terms	7	8	0
Delivery time	7	6	2
Direct discounts offered	9	6	0
Indirect discounts offered	5	9	1
Extension of credit	4	4	7
Price	13	1	1
Minimum quantity requirements	2	4	9
Packaging	6	5	4
Product consistency	12	3	0
Promotional considerations	4	10	1
Promotional displays	2	3	10
Quality meets industry standard	11	4	0
Quality exceeds industry standard	6	9	0
Product range	5	9	1
Reliability of supply	13	2	0
Technical support/service	10	5	0
U.S. transportation costs	2	4	9

Note.--Not all purchasers responded for each factor.

Among other factors listed as very important, consumer demand/preference was named by ***, product features/innovation was named by ***, fit/finish/feel was named by ***, value was named by ***, traditional supplier was named by ***. *** also indicated that brand preference was "somewhat" important. Purchasers also used the "other" question to repeat the importance of price, availability, supplier reputation, promotional support, and vendor support.

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

Eight purchasers (including ***) stated that they had purchased bottom mount refrigerators from one source even though a comparable product was available from another source at a lower price. These purchasers cited quality, consumer demand, features, style, minimum order size, time to fill orders, and overall vendor profitability on all product lines as reasons. Three other purchasers indicated they had likely always purchased the lowest-price comparable product.

Importance of producer and country of origin

As shown in the tabulation below, most purchasers make decisions based on producer only sometimes, while the purchasers' customers (consumers) are more likely to "usually" make decisions based on producer.

<u>Purchaser / Customer Decision</u>	<u>Always</u>	<u>Usually</u>	<u>Sometimes</u>	<u>Never</u>
Purchaser makes decision based on producer	3	1	9	3
Purchaser's customer makes decision based on producer	0	7	7	1
Purchaser makes decision based on country	1	0	2	13
Purchaser's customer makes decision based on country	0	0	9	4

Purchasers cited brand preference, or anticipated consumer brand preference, as one possible reason to make decisions based on producer. Two purchasers indicated that they only purchase from a specified number of producers. Product quality and vendor profitability (including on all appliance products) were other key considerations for purchasers. *** noted that a consumer's ability to complete an entire kitchen suite with appliances from one producer was a reason to purchase only from that producer. ***.

Purchasers saw brand as a key reason why consumers would make a purchasing decision based on producer. Purchasers explained that consumer brand preference might be due to past experience with the brand, published ratings of various brands, advertising, and the ability of a brand to convey a certain quality or style. However, *** stated that the number one consumer consideration is ***. *** added that color is an important consumer consideration for refrigerators, and *** named product features as a similar consideration.

Neither purchasers nor consumers usually make decisions based on the country of origin of bottom mount refrigerators,⁵⁹ but consumers are more likely to make decisions on this basis than purchasers are. The few purchasers that found country-of-origin important in purchasing bottom mount refrigerators cited buying American products, reliability of supply, and delivery. Six purchasers noted that some consumers prefer products made in the United States.

Thirteen purchasers stated that neither they nor their customers ever specifically ordered bottom mount refrigerators from one country in particular over other sources of supply. Three stated that they did, but only *** elaborated, explaining that some customers have a preference for U.S.-made product, although it did not know how many.

Twelve purchasers stated that there are no types of bottom mount refrigerators available from only a single source, but *** described some U.S. and Mexican models as only available from those sources. ***.

Importance of purchasing domestic product

Thirteen purchasers reported that purchasing U.S.-produced product was not an important factor in their purchasing decisions. Two reported that domestic product was required by law for sales to Federal or state buyers. Three reported it was required by their customer, with *** estimating that these customer preferences covered about 20 percent of all its purchases. *** added that some consumers do ask the location of production.

⁵⁹ *** reported purchasing only from U.S. producers. No other purchasers reported purchases from only one country.

Changes in purchasing patterns

Purchasers were asked about changes in their purchasing patterns from different sources since 2009. Purchasers were given the choice of answering by country source or by brand source. Only three purchasers (***) were able to describe their changes by country. *** described decreasing its purchases of U.S. product while increasing its purchases of product from Korea and Mexico. It indicated that it increased purchases from Korea due to ***. It added that it increased purchases from Mexico because ***. *** reported fluctuating purchases of U.S. product, increased purchases of Korean product (due to an increase in consumer demand from innovative features and superior quality), and decreased purchases of Mexican product (due to service issues and less desirable features). *** stated that its purchases of Mexican product were constant while it increased purchases of Korean product due to an expanded product line.

Other purchasers described their changes in purchases based on producer and brand, as summarized in table II-4.

Table II-4
Bottom mount refrigerators: Changes in purchase patterns from various company sources

* * * * *

Purchasers increasing purchases from Whirlpool cited consumer demand and lower pricing. Those describing fluctuating purchases from Whirlpool cited general economic conditions (as *** did for ***) or unknown reasons (as *** did for ***). Purchasers reporting increased purchases from GE cited more competitive prices and features, while those reporting a decrease cited limited product selection and a lack of innovative features. Purchases increased purchases from LG because of superior “deals,” increasing demand, and availability of new models. One purchaser decreased purchases from LG because of “less competitive offerings.” Purchasers increased demand from Samsung because of increased consumer demand and increased number of Samsung models.

Ten purchasers reported that they had not changed suppliers since January 1, 2009. Five reported that they had. *** indicated that it had added Samsung and Electrolux due to new product offerings, but noted that it rarely changes suppliers. On the other hand, *** described constantly reviewing suppliers and adding alternate suppliers. *** reported that it dropped the Amana brand (a Whirlpool brand) because it no longer fit its merchandising strategy. *** added Samsung as a supplier due to the popularity of its product. *** added Samsung and dropped ***.

Eleven purchasers were not aware of any new suppliers in the bottom mount refrigerator market since January 1, 2009. Five purchasers were, naming Samsung (named by three purchasers), Electrolux (named by three purchasers), LG (named by one purchaser), and Haier (named by one purchaser). One purchaser noted that it was already familiar with ***. *** noted that it was approached by ***.

Purchasers were asked if they had solicited or requested a proposal for a product line review over 2009-2011. Most purchasers answered that they had not, although *** described product line reviews as a common practice.⁶⁰ *** answered that it does conduct general product line reviews and that it does not award contracts to vendors that would require it to carry a certain amount of product in its stores. *** answered that it does not perform product line reviews for specific products, but rather tries to stock a reasonable range of products in its stores. ***. ***.

⁶⁰ It added that *** had benefitted the most from its product line reviews.

Supplier certification

Fifteen responding purchasers do not require that the bottom mount refrigerators they purchase be certified, while ***.

Floor space

Whirlpool described competition for floor space at retailers as based on whether the retailer will be able to earn an adequate margin on that product in that space. However, it stated that, in general, bottom mount refrigerators compete for retail floor space mostly with other bottom mount refrigerators, and not other appliances.⁶¹

Purchasers were asked whether the relative pricing from alternative suppliers of comparably-specified bottom mount refrigerators affected the floor space in their retail outlets devoted to product from alternative suppliers. Seven purchasers stated that it did not, but eight stated that it did. *** stated that if product is not competitive, then *** will not give it floor space. *** indicated that products with higher profits or lower prices receive more floor space. *** elaborated that customer demand for low prices drives this floor space allocation. *** described allocating more floor space to lower-priced products if they are comparable in features, aesthetics, and market potential. *** answered that they did allocate more floor space to lower-priced product. However, along with *** they described their floor allocation decision as based on trying to offer consumers a range of products at different price points.

Financial incentives

Purchasers were asked what were their financial incentives in their decisions on where to source bottom mount refrigerators. Four purchasers described their expected profit, taking into account discounts and consumer demand. *** stated that it buys product from *** suppliers, and tries to support all of them. It added that it also tries to have a retail display that generates the most sales and profit. As such, it ***. *** described considering inventory carrying costs and transportation charges along with sales forecasts. *** commented that all suppliers in the industry offer financial incentives to retailers, but the primary factor in sourcing is consumer preference. *** described financial competition and net margins as fairly consistent across suppliers.

Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports

As can be seen in table II-5, a majority of purchasers reported that U.S. and subject product were comparable on the 18 factors from table II-3, except for inferior availability and delivery time for Korean product. Similarly, most purchasers indicated that Korean and Mexican product were comparable in all factors except delivery time. Three purchasers stated that U.S. product was inferior to Korean and Mexican product in factors such as fit, finish, and feel; innovative features; style; technology; and design.

⁶¹ Hearing transcript, pp. 102-104 (Bitzer).

Table II-5
Bottom mount refrigerators: Comparisons between U.S.-produced, subject and nonsubject imported product as reported by U.S. purchasers

Factor	U.S. vs Korea			U.S. vs. Mexico			U.S. vs. nonsubject ¹			Korea vs. Mexico			Mexico vs. nonsubject ¹		
	S	C	I	S	C	I	S	C	I	S	C	I	S	C	I
Availability	7	3	0	4	6	0	1	1	0	0	6	5	0	1	0
Delivery terms	4	6	0	3	7	0	1	1	0	0	8	3	0	1	0
Delivery time	9	1	0	5	5	0	2	0	0	0	4	7	1	0	0
Direct discounts	0	8	2	0	8	2	0	1	1	1	10	0	0	1	0
Indirect discounts	0	7	3	0	7	3	0	1	1	1	10	0	0	1	0
Extension of credit	0	9	0	0	9	0	0	1	0	0	9	0	0	0	0
Price ²	1	8	1	1	8	1	0	2	0	0	10	1	0	1	0
Minimum quantity requirements	3	7	0	2	8	0	0	2	0	0	11	0	0	1	0
Packaging	0	10	0	0	10	0	0	2	0	1	10	0	0	1	0
Product consistency	1	7	1	1	8	0	0	0	1	0	10	0	0	0	0
Promotional considerations	0	8	2	0	8	2	0	1	1	1	10	0	0	1	0
Promotional displays	0	8	1	0	8	1	0	1	0	1	9	0	0	0	0
Quality meets industry standard	0	10	0	0	10	0	0	2	0	0	11	0	0	1	0
Quality exceeds industry standard	2	6	2	1	8	0	0	1	1	1	9	1	0	1	0
Product range	1	7	2	1	9	0	0	2	0	1	10	0	0	1	0
Reliability of supply	4	6	0	3	6	1	0	2	0	1	8	2	0	1	0
Technical support/service	3	7	0	2	8	0	0	2	0	0	10	1	0	1	0
U.S. transportation costs ²	2	7	0	1	8	0	1	0	0	0	10	0	0	0	0
Other ³	0	0	3	0	0	3	0	0	0	0	3	0	0	0	0

¹ For the United States, the comparisons were to product from China and Germany. For Mexico, the comparison was to product from China.

² A rating of superior means that price/U.S. transportation cost is generally lower. For example, if a firm reported "U.S. superior", it meant that the U.S. product was generally priced lower than the imported product.

³*** indicated that U.S. product was inferior to Korean and Mexican product in factors such as fit, finish, and feel; innovative features; style; technology; and design. These three firms generally rated U.S., Korean, and Mexican product as *** in quality meeting industry standards, quality exceeding industry standards, and range. However, *** rated U.S. product as *** to Korean product in terms of quality exceeding industry standards, and *** rated U.S. product as *** to Korean product in terms of product range.

Note: S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior.

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

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-6 and the following page.

Table II-6
Bottom mount refrigerators: Perceived degree of interchangeability of product produced in the United States and in other countries¹

* * * * *

In additional comments, among U.S. producers, *** described height, width, and depth 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 different producers offer different sizes, designs, and aesthetic designs. *** stated that there is some *** product available in sizes and with features not available in significant quantities from U.S. producers. It added that consumers sometimes look beyond the functional interchangeability of different brands, including looking at fit, finish, and feel as well as features and reliability. *** stated that U.S. and imported product are interchangeable depending upon the consumer’s home and electrical wiring.

Among purchasers, *** described U.S. and subject imports as “sometimes” interchangeable, while *** described them as “always” interchangeable. *** did not respond to this question.

As can be seen from table II-7, all responding purchasers reported that U.S. and subject imports “always” or “usually” meet minimum quality specifications, with subject imports reported as “always” meeting specifications slightly more often than domestic product.⁶² ***.

Table II-7
Bottom mount refrigerators: Ability to meet minimum quality specifications, by source

Country	Number of firms reporting ¹			
	Always	Usually	Sometimes	Never
United States	6	5	0	0
Korea	7	4	0	0
Mexico	7	4	0	0
Nonsubject ²	1	1	1	0

¹ Purchasers were asked how often domestically produced or imported bottom mount refrigerators meet minimum quality specifications for their own or their customers’ uses.

² Nonsubject includes Germany (always meets) and China (usually or sometimes meets).

Source: Compiled from responses to Commission questionnaires.

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-8 and on the following page.

⁶² ***.

Table II-8
Bottom mount refrigerators: Differences other than price between products from different sources¹

* * * * *

In further comments, *** indicated that consumer purchasing decisions reflect consumers' perceived value at that price point, but that price always plays a role in consumers' decisions. It added that data show that price declines in any bottom mount refrigerator model lead to increases in sales of the model. *** described quality, availability, transportation network, product range, and technical support as potentially affecting price. It added that ***. *** stated that *** were often more important than price for consumers. It added that ***. *** added that in addition to price, consumers judge bottom mount refrigerators based on quality, available features, customer support, and turnaround availability.

Among purchasers, *** accounts for the three "always" responses in table II-8, while *** answered sometimes for comparisons of U.S. and subject product. *** did not respond to this question.

ELASTICITY ESTIMATES

This section discusses elasticity estimates. Parties were encouraged to comment on these estimates in their prehearing and/or posthearing briefs. LG and Samsung disputed some of staff's prehearing estimates (as detailed below) while petitioners offered support for staff's prehearing estimates.⁶³ Taking all comments into account, staff has revised its elasticity estimates from the prehearing report.

U.S. Supply Elasticity⁶⁴

The domestic supply elasticity for bottom mount refrigerators measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of bottom mount refrigerators. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced bottom mount refrigerators. Analysis of these factors earlier indicates that the U.S. industry is likely to be able to somewhat increase or decrease shipments to the U.S. market (depending on its ability to switch production from alternative products); an estimate in the range of 1 to 4 is suggested.⁶⁵

U.S. Demand Elasticity

The U.S. demand elasticity for bottom mount refrigerators measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of bottom mount refrigerators. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of

⁶³ Hearing transcript, pp. 113-114 (Greenwald), and petitioner's prehearing brief, p. 16.

⁶⁴ A supply function is not defined in the case of a non-competitive market.

⁶⁵ LG agreed with staff's estimate of the elasticity of supply. LG prehearing brief, p. 18.

substitute products, as well as the component share of the bottom mount refrigerators in the production of any downstream products. In the prehearing report, staff noted that because market participants reported that consumers seem to purchase bottom mount refrigerators without substantial regard to the price of substitute products, the aggregate demand for bottom mount refrigerators is likely to be inelastic. LG stated that while “replacement” demand is likely to be inelastic, discretionary demand may be more elastic.⁶⁶ (Staff notes that Commission questionnaires did not distinguish between types of demand when asking about substitute products, and so questionnaire respondents likely answered for all types of demand, including both replacement and discretionary). Samsung also noted that Whirlpool had testified that there was some price pressure put on side-by-side refrigerators by falling prices of bottom mount refrigerators.⁶⁷ Petitioner, however, noted that staff’s original estimate were in the range of several academic estimates of elasticities for refrigerators and/or appliances, albeit for household, not retailer, demand.⁶⁸ Considering all parties’ comments, staff is revising its range to -0.3 to -0.8 to take into account any difference between the elasticity of replacement and discretionary demand.

Substitution Elasticity

The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change. The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products. Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (availability, sales terms/discounts/promotions, etc.). In the prehearing report, staff estimated that the elasticity of substitution between U.S.-produced bottom mount refrigerators and imported bottom mount refrigerators was likely in the high to moderate range, depending on how much consumers differentiate between domestic and imported product on the basis of quality and features. LG took issue with the estimate,⁶⁹ noting that some purchasers placed high importance on non-price factors, that subject imports have a higher relative concentration in the larger capacity product sizes, and that purchasers often identified LG and Samsung as “innovation leaders.”⁷⁰ Staff notes that nonetheless, purchasers still identified U.S. and subject imports as always or frequently interchangeable, with non-price differences only sometimes a significant factor in deciding between U.S. product and subject imports. However, LG’s objections could be consistent with non-price differences “sometimes” being a significant factor, so staff is revising its estimated range to 2 to 5.

⁶⁶ LG prehearing brief, p. 19.

⁶⁷ Samsung posthearing brief, p. A-65.

⁶⁸ Petitioner’s posthearing brief, p. III-13.

⁶⁹ Samsung concurred with LG’s analysis. Samsung posthearing brief, p. A-65.

⁷⁰ LG prehearing brief, pp. 20-22.

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 2011.

U.S. PRODUCERS

The Commission sent U.S. producers' questionnaires to seven firms believed to be U.S. producers of bottom mount refrigerators.¹ The following four firms submitted responses: (1) GE; (2) Haier; (3) Viking; and (4) Whirlpool. In the preliminary phase of these investigations, petitioner estimated 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 2011, 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 2011, 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)	***	***
Viking	Greenwood, MS	***	***	***
Whirlpool ³	Amana, IA Fort Smith, AR Evansville, IN LaVergne, TN	***	Petitioner	Petitioner
¹ *** ² *** ³ ***				
Source: Compiled from data submitted in response to Commission questionnaires.				

¹ The petition identified three U.S. producers of bottom mount refrigerators: (1) Whirlpool, (2) Sub-Zero, and (3) Viking. Although not identified as U.S. producers of bottom mount refrigerators in the petition, in the preliminary phase of these investigations, two additional U.S. firms reported that they produced bottom mount refrigerators in the United States. These firms were: (1) GE and (2) Haier. The Commission also sent U.S. producer questionnaires to Fisher & Paykel and Robert Bosch LLC. Fisher & Paykel reported that ***. Robert Bosch and Sub-Zero did not submit questionnaire responses to the Commission.

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 2009 to 2011 by *** percent. Total U.S. production of bottom mount refrigerators increased by *** percent from 2009 to 2011. Annual capacity utilization increased from *** percent in 2009 to *** percent in 2010, but decreased to *** percent in 2011.

Table III-2
Bottom mount refrigerators: U.S. producers' capacity, production, and capacity utilization, 2009-2011

* * * * *

*** of the four U.S. producers, ***, reported changes in capacity due to acquisitions, relocations, production curtailments, and/or plant closures. The tabulation below lists recent 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 In 2011, Whirlpool announced ***.

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, 2011

* * * * *

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. Home Depot later revised its estimate of GE's production start to early 2012. Hearing transcript, p. 181 (Baird).

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 increased by *** percent from 2009 to 2011. The value of U.S. shipments increased by *** percent from 2009 to 2011. *** reported *** internal consumption. *** reported ***. *** 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, 2009-2011

* * * * *

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, their 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, 2009-2011

* * * * *

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, 2009-2011

* * * * *

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, 2009-2011

* * * * *

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

U.S. IMPORTERS

The Commission sent importer questionnaires to 15 firms, including those firms listed in the petition as likely to be U.S. importers of bottom mount refrigerators as well as to all U.S. producers.¹ U.S. importer questionnaire responses were received from nine firms, seven 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 2011. 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 2011. 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 2011.³

Table IV-1
Bottom mount refrigerators: Reported U.S. imports, by importers and by sources of imports, 2011

Importer	U.S. location	Quantity (actual units)			
		Korea	Mexico	Nonsubject countries	Total
Daewoo ¹	Doral, FL	***	***	***	***
Electrolux ²	Charlotte, NC	***	***	***	***
Fisher & Paykel ³	Huntington Beach, CA	***	***	***	***
GE ⁴	Louisville, KY	***	***	***	***
LG ⁵	Englewood Cliffs, NJ	***	***	***	***
Samsung ⁶	Ridgefield Park, NJ	***	***	***	***
Whirlpool ⁷	Benton Harbor, MI	***	***	***	***
Total		***	***	***	***
1 *** 2 *** 3 *** 4 *** 5 *** 6 *** 7 ***					
Source: Compiled from data submitted in response to Commission questionnaires.					

¹ The Commission's questionnaire mailing list consisted of 15 firms. All of these firms received U.S. producer's and U.S. importer's questionnaires. These 15 firms included: ***, ***, ***. These firms include: ***. All four firms submitted U.S. purchaser questionnaire responses to the Commission. Sub-Zero and Robert Bosch LLC did not submit questionnaire responses to the Commission.

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

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, 2011

* * * * *

Table IV-3

Side-by-side refrigerators: Reported U.S. imports, by importers and by sources of imports, 2011

* * * * *

U.S. IMPORTS

Table IV-4 presents data for U.S. imports of bottom mount refrigerators from Korea, Mexico, and nonsubject countries. The data in table IV-4 are compiled using responses to the Commission’s U.S. importer questionnaire. As shown, U.S. imports from Korea increased by *** percent from 2009 to 2011. The volume of U.S. imports from Mexico increased by *** percent from 2009 to 2011.⁴ The volume of U.S. imports from nonsubject countries increased by *** percent from 2009 to 2011.⁵ The sources of reported U.S. imports from nonsubject countries were: ***.⁶

Table IV-4

Bottom mount refrigerators: U.S. imports, by sources, 2009-2011

* * * * *

⁴ In the preliminary and final phases of these investigations, respondents have argued 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 contended that ***. LG’s postconference brief, p. 36; Samsung’s postconference brief, p. 15. Petitioner contends that ***. Petitioner’s postconference brief, p. 26.

⁵ ***.

⁶ In the preliminary and final phases of these investigations, petitioner and respondents appeared 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.

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, in the preliminary phase of these investigations, the petitioners argued 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 U.S. market during the period of investigation.⁷ Official Commerce statistics show that U.S. imports from Korea and Mexico did enter the United States through geographically dispersed U.S. ports of entry in every month of the period of investigation.⁸ Both U.S. producers and U.S. importers reported distributing bottom mount refrigerators geographically throughout the United States.⁹ During the preliminary phase of these investigations, respondents did not raise any issues with regard to the cumulation of subject imports.¹⁰

The Commission preliminarily determined that U.S. imports from Korea and Mexico should be cumulated and stated:

“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, . . . subject imports from all . . . 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. 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. 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.”¹¹

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.¹² 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

⁷ Petition, p. 16; petitioner’s postconference brief, p. 9.

⁸ Official Commerce statistics for HTS 8418.10.00 (2011).

⁹ Responses to U.S. producer’s questionnaires, question IV-11; responses to U.S. importer’s questionnaires, question III-11.

¹⁰ Samsung’s postconference brief, p. 2; Conference transcript, p. 142 (Cunningham).

¹¹ *Bottom Mount Combination Refrigerator-Freezers from Korea and Mexico, Inv. Nos. 701-TA-477 and 731-TA-1180-1181 (Preliminary)*, USITC Publication 4232, May 2011, p. 12.

¹² 19 U.S.C. § 1677(24)(A)(ii).

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.¹³

CRITICAL CIRCUMSTANCES

In its final affirmative determination of LTFV sales of the subject product from Korea, Commerce found that critical circumstances did not exist for imports of bottom mount refrigerators from Korea. In particular, Commerce stated:

“For Daewoo and Samsung, we calculated final margins of *de minimis* and 5.16 percent, respectively, which do not meet the 15- and 25-percent thresholds necessary to impute knowledge of dumping for either CEP or EP sales. Finally, for the companies covered by the “All Others” rate, the final calculated dumping margin of 10.29 percent also does not meet the 15- percent threshold necessary to impute knowledge of dumping for CEP sales, which are the vast majority of the sales on which the calculation of the “All Others” rate is based. Therefore, we find that the importer knowledge criterion, as set forth in section 735(a)(3)(A)(ii) of the Act, has been met for LG, but has not been met for Daewoo, Samsung, and the companies covered by the “All Others” rate.

. . .

We do not find that there have been massive imports of bottom mount refrigerators over a relatively short period from LG due to seasonality. Therefore, for the reasons stated above, the Department finds that critical circumstances do not exist for imports of the subject merchandise from Korea.”¹⁴

In its final affirmative determination of LTFV sales of the subject product from Mexico, Commerce found that critical circumstances did exist for imports of bottom mount refrigerators from Samsung Mexico. In particular, Commerce stated:

“We find that there have been massive imports of bottom mount refrigerators over a relatively short period from Samsung, irrespective of seasonality. However, we do not find that there have been massive imports of bottom mount refrigerators over a relatively short period from Electrolux and LG due to seasonality. Therefore, for the reasons stated above, the Department finds that critical circumstances do not exist for imports of the subject merchandise from Electrolux and LG, but continues to find that critical circumstances exist for imports of the subject merchandise from Samsung in the final determination.”¹⁵

If the Commission determines that an industry in the United States is materially injured by reason of LTFV imports of bottom mount refrigerators from Korea and/or Mexico, it must further determine “whether the imports subject to the affirmative {Commerce critical circumstances} determination . . . are

¹³ See table IV-4.

¹⁴ *Notice of Final Determination of Sales at Less Than Fair Value and Negative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea*, 77 FR 17413, March 26, 2012.

¹⁵ *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From Mexico*, 77 FR 17422, March 26, 2012.

likely to undermine seriously the remedial effect of the antidumping duty order to be issued.”¹⁶ The statute further provides that in making this determination, the Commission shall consider:

- (I) the timing and the volume of the imports,
- (II) a rapid increase in inventories of the imports, and
- (III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.¹⁷

Monthly import data and end-of-period inventories of imports of bottom mount refrigerators by U.S. importers from Korea, for the period before and after the filing of the petition (September 2010 through September 2011), are presented in table IV-5. Monthly import data and end-of-period inventory data from Mexico are presented in table IV-6.

Table IV-5
Bottom mount refrigerators: U.S. imports and end-of-period inventories of bottom mount refrigerators from Korea, by month and firm, September 2010-September 2011

* * * * *

Table IV-6
Bottom mount refrigerators: U.S. imports and end-of-period inventories of bottom mount refrigerators from Mexico, by month and firm, September 2010-September 2011

* * * * *

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Data on apparent U.S. consumption of bottom mount refrigerators are presented in table IV-7. From 2009 to 2011, apparent U.S. consumption of bottom mount refrigerators increased by *** percent, by quantity and *** percent, by value. In 2011, U.S. production accounted for *** percent of apparent U.S. consumption of bottom mount refrigerators.

Data on U.S. market shares for bottom mount refrigerators are presented in table IV-8. U.S. producers lost *** percentage points of U.S. market share from 2009 to 2011 based on quantity and *** percentage points based on value. U.S. imports from Korea gained *** percentage points of U.S. market share from 2009 to 2011 based on quantity and *** percentage points based on value. U.S. imports from Mexico gained *** percentage points of U.S. market share from 2009 to 2011 based on quantity and *** percentage points based on value. U.S. imports from nonsubject countries gained *** percentage points of U.S. market share from 2009 to 2011 based on quantity and *** percentage points based on value.

Table IV-7
Bottom mount refrigerators: U.S. shipments of domestic product, U.S. shipments of imports by sources, and apparent U.S. consumption, 2009-2011

* * * * *

¹⁶ Section 735(b)(4)(A)(i) of the Act (19 U.S.C. § 1673d(b)(4)(A)(i)).

¹⁷ Section 735(b)(4)(A)(ii) of the Act (19 U.S.C. § 1673d(b)(4)(A)(ii)).

Table IV-8
Bottom mount refrigerators: Apparent U.S. consumption and market shares, 2009-2011

* * * * *

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-9.

Table IV-9
Bottom mount refrigerators: U.S. production, U.S. imports, and ratios of imports to production, 2009-2011

* * * * *

PART V: PRICING AND RELATED INFORMATION ¹

FACTORS AFFECTING PRICES

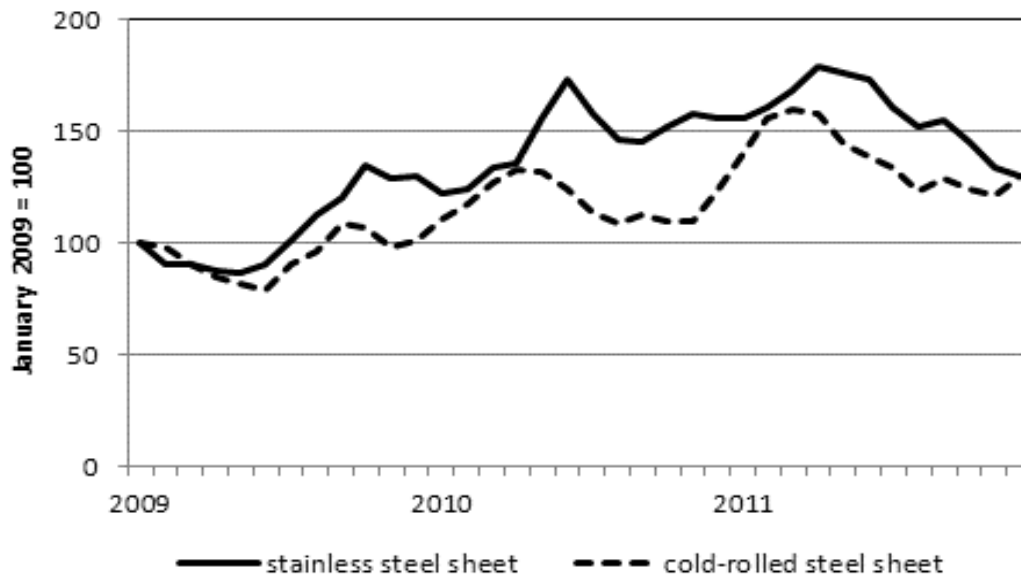
Raw Material Costs

Raw materials accounted for between *** and *** percent of U.S. producers' costs of goods sold during 2009-11, 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 resins, carbon steel, stainless steel, copper, aluminum, various plastics, 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. *** added that it had recently increased retail prices as a result. *** described raw material prices as falling or subsiding since mid-2011, but both expected price increases to resume in 2012. *** did not report any trends in raw material prices.

The prices of two raw materials, cold-rolled steel and stainless steel sheet, rose by approximately 30 percent from January 2009 to December 2011 (figure V-1).

Figure V-1
Raw Materials: Price Indices of Cold-rolled Steel Sheet and Stainless Steel Sheet, January 2009-December 2011.



Source: American Metal Market and staff calculations.

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

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

U.S. Inland Transportation Costs

Producers had somewhat lower U.S. inland transportation costs than importers, perhaps because they shipped bottom mount refrigerators shorter distances within the United States. Among U.S. producers, U.S. inland transportation costs ranged from *** percent. *** arrange transportation for *** customers. *** shipped most of *** sales between 100 and 1,000 miles of *** production facilities, with most of the balance shipped 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. *** shipped a majority of *** product more than 1,000 miles from *** U.S. point of shipment. *** had *** percent of *** sales shipped between 100 and 1,000 miles of *** U.S. point of shipment, with a majority of the remainder more than 1,000 miles. *** shipped *** between 100 and 1,000 miles from its U.S. point of shipment, with *** being shipped more than 1,000 miles. For *** shipped more than 1,000 miles, with *** shipped less than 100 miles. Importers *** shipped bottom mount refrigerators from a storage facility, *** shipped from its point of importation, and *** shipped from both storage facilities and points of importation.

Transportation Costs to the U.S. Market

In 2011, transportation costs for bottom mount refrigerators were 9.9 percent from Korea to the U.S. market and 1.2 percent from Mexico to the U.S. market.⁴ Whirlpool described rising logistic costs for overseas production as offsetting U.S. labor costs for bottom mount refrigerator production, making U.S. production more attractive than before.⁵

PRICING PRACTICES

Pricing Methods

Price negotiations

Whirlpool 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.⁶

Most purchasers reported purchasing daily (six purchasers, including ***) or weekly (ten purchasers, including ***). Sixteen purchasers reported no significant changes to their purchasing patterns since January 1, 2009. Most purchasers reported contacting three to six vendors when purchasing, although five (***) reported approaching only one.

Eleven purchasers reported that their purchases of bottom mount refrigerators involved negotiations between supplier and purchasers, while five reported that they did not. Among those reporting negotiations, none reported quoting competing prices during negotiations. *** reported considering features, brand, margins, and retail prices during negotiations. *** reported considering

³ ***.

⁴ Staff compared customs and c.i.f. values for HTS statistical reporting numbers 8418.10.0010, 8418.10.0020, 8418.10.0030, and 8418.10.0040.

⁵ Hearing transcript, p. 83 (Bitzer).

⁶ Conference transcript, p. 94 (Bitzer).

pricing, promotions, and allowances. *** stated that it analyzes the minimum advertised price, features, and *** during negotiations. *** described negotiations as involving financial support to liquidate old models, expected sales, and comparison of model features to competitor's products. *** indicated that ***.

Twelve purchasers reported that they tend to vary their purchases from a given supplier based on price, while three stated that they did not. Three of those that did vary reported that they will increase purchases due to incentives or lower prices from suppliers. Two purchasers reported increasing purchases during holiday sales promotions. *** indicated that their purchases may increase due to consumer demand, and *** added that it does not use every discount offered.

Price determination and contracts

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; *** reported using ***; *** reported using ***; and *** reported using ***. *** reported using ***.

Producers and importers reported that short-term contracts were the most prevalent form of sales in 2011. Among producers, ***. Among importers, ***. ***.

For short-term contracts, ***.⁷

In terms of size and features, Whirlpool described each cubic foot of capacity as adding an additional \$100 to the retail price, dual evaporators as adding \$150 to the retail price, LED lighting as adding \$100 to the retail price, and external ice and water adding \$700 to the retail price.⁸ In the preliminary report, firms were asked to report the cost of various features; these costs ranged widely according to reporting firm.⁹

Minimum Advertised Prices

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.¹⁰ Home Depot added that MAPs are enforced with financial penalties, including withdrawing support for cooperative advertising¹¹ (and eventually not selling the product to the retailer). It added that during promotional periods, the reduced MAP does 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.¹² Finally, it described MAPs as being generally within the same range

⁷ ***.

⁸ Hearing transcript, p. 33 (Bitzer).

⁹ Confidential staff report, preliminary phase, table V-19.

¹⁰ Conference transcript, pp. 31, 91 (Bitzer, Greenwald).

¹¹ Whirlpool described this withdrawal of cooperative advertising support as the only method it had to enforce MAP, and indicated that it was illegal for it to more explicitly set retailer prices. Hearing transcript, p. 57 (Bitzer and Greenwald).

¹² Conference transcript, pp. 130-133 (Baird).

across different bottom mount refrigerator products, and sometimes not changing over the life cycle of a particular product.¹³

However, *** also indicated that while MAP is called a “minimum” price, it is really a “maximum” price if a retailer wants to sell product in significant volume. It explained that the transparency in the bottom mount refrigerator retail market meant that it would be difficult to have sales with prices above advertised market prices.¹⁴ Fourteen purchasers indicated that they never set their actual retail prices to consumers above the MAP.

Purchasers may set prices below the MAP, either as a non-advertised in-store promotion (possibly with vendor discounts) or as “breaking the MAP.”¹⁵ Ten purchasers stated that they set their retail prices below the MAP “frequently,” and another four set their retail prices below MAP “sometimes.” Purchasers reported a wide range of frequencies for setting their own retail prices below MAP, ranging from “not often” (by ***) to 50 percent of the time (by ***) to 90-95 percent of the time (by ***). If product does not sell at MAP pricing, purchasers reported not stocking the item or negotiating with suppliers for a consumer rebate or lower cost.

Producers *** as well as *** determined their own MAP prices rather than base MAP pricing on negotiations with retailers,¹⁶ as *** did. *** always used the same MAP for the same bottom mount refrigerator model sold to different retailers.¹⁷ On the other hand, *** sometimes used different MAPs in such situations.

Producers, importers, and purchasers were asked what factors determine the specific MAP levels at retail for their sales of bottom mount refrigerators. ***, and ten purchasers stated that such factors included MAP prices set by competitors for product with similar features. ***, and three purchasers added that another factor was model-specific sales volume targets. *** and two purchasers listed the invoice price from it to the retailer as a factor. Four purchasers added that discounts paid to them by the supplier were a factor.

Producers and importers were asked whether MAP prices were a factor in their firm’s negotiations of sales prices to retailers. *** stated that they were not,¹⁸ but *** stated that they were. *** described MAP prices as the starting point for prices, with discounts, rebates, retailer costs, and retailer margins calculated off of MAP prices. *** stated that while it has a MAP policy, compliance with it is at the retailer’s discretion. It added that it attempts to charge the highest invoice prices possible to achieve flooring for a substantial number of models at each retailer. Furthermore, it described retailers as requesting invoice price proposals to be presented in terms of the retailer's gross profit margin relative to

¹³ 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.

¹⁴ On the other hand, Whirlpool described the retailer as setting its retail price, and keeping that price secret until a few days before the sale. It added that retailers are highly sensitive about their price levels on promotional periods such as Black Friday. Conference transcript, p. 59 (Bitzer). LG added that the retailer exclusively determines selling price. Hearing transcript, p. 196 (Herring).

¹⁵ Advertisement below the MAP determines whether a retailer is eligible for co-op advertising support, not whether product is sold in the store below MAP. Petitioner’s posthearing brief, p. III-4. Additional discussion may be found in the posthearing brief of Samsung, pp. 2 and 4 and the posthearing brief of LG, appendix I.

¹⁶ Fourteen purchasers agreed that MAP pricing is set by their suppliers of bottom mount refrigerators.

¹⁷ Thirteen purchasers agreed that their MAPs are the same as those for retailers with which they compete, but *** stated that they could be different.

¹⁸ Two of those *** described retailers as instead looking at retailer margin off of MAP, competitive pressure, and discounts/rebates.

MAP pricing, and indicated that discounts and rebates are not considered in setting the invoice price at this stage.¹⁹

Sales Terms

Producers and importers offered a variety of sales terms. Among producers, *** stated that *** typical sales terms were ***, while ***. Among importers, most had terms of 30-45 days, although *** also had some sales on 60 day terms. *** priced their bottom mount refrigerators on a delivered basis, *** priced on an f.o.b. shipping point basis, and *** split its sales approximately evenly between sales on a delivered and f.o.b. shipping point basis.

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).²⁰ Whirlpool described the indirect discounts as including advertising support.^{21 22}

Producers and importers often, though not always, provide discounts, rebates, and other types of allowances to retailers based both on units sold by the retailer and based on sales to the retailer. Among producers, *** indicated that it provides discounts both on a units sold and buy-in basis. It added that ***. However, *** reported that it did not provide either type of discount.

Among importers, *** described providing discounts both based on units sold by the retailer and based on sales to the retailer. *** explained that it bases rebates on annual or quarterly sales. *** described providing rebates for consumer promotions, with rebates provided to the retailer upon proof of units sold. *** indicated that it uses a similar method for its limited-time-offers. *** also described the bottom mount refrigerator industry as commonly providing indirect rebates for meeting revenue targets. It added that Whirlpool uses such rebates “very heavily.”

Similarly, nine purchasers reported receiving supplier discounts based on units sold and on units purchased from their suppliers. *** elaborated that indirect discounts tend to be based on annual volume purchases while direct discounts are more likely based on purchases within a shorter specified time frame. Three purchasers reported receiving discounts only on units purchased, and one answered that it received its discounts only on units sold. Two purchasers reported not receiving either type of discount.

Direct discounts

Producers and importers reported a wide variety of direct discount policies. Among producers, ***. Among importers, five reported promotional discounts, and four reported using quantity, annual, sales incentive, and other discounts. Other discounts listed included promotional display discounts and markdown discounts, and may have included indirect discounts. Further information on the importance of discounts to purchasers is available in table II-3 of Part II, *Conditions of Competition in the U.S. Market*.

¹⁹ Nine purchasers indicated that the MAP was not factor in setting the price it pays to its suppliers, while five indicated that it was. However, of the nine who indicated that the MAP was not a factor, several noted that margin off of MAP was the point of the negotiation.

²⁰ Petition, p. 129.

²¹ Conference transcript, p. 31 (Bitzer).

²² Additionally, ***. ***.

Indirect discounts

In order to help understand what role indirect discounts play in the pricing of bottom mount refrigerators, Commission questionnaires asked producers and importers several questions about the nature of their indirect discounts.

Producers and importers were asked to describe each type of indirect discount that their firm offers. *** described using ***. *** submitted a list of its discounts, which it described as falling into three broad categories: ***.

Among importers, *** indicated that its indirect discounts can vary by retailer, as some retailers do not allow certain types (e.g., spiffs, which are manufacturer payments to retailer's sales staff for a sale) or insist on others (e.g., advertising and promotional help). *** also described indirect rebates as determined during negotiations with each retailer, which have different preferences for various indirect discounts. *** listed indirect discounts including ***.

Producers, importers, and purchasers offered mixed assessments of how important a role indirect discounts play in their price negotiations with customers. Among producers, *** described indirect discounts as playing no role in price negotiations with its customers. However, *** described such negotiations as "very important," and noted that each discount means cash lost to its bottom line. Among importers, *** indicated that direct and indirect discounts were equally important, as overall profitability was its goal. Similarly, *** stated that indirect discounts are no more or less important than other variables, as it endeavors to achieve the same profit margin for all its customers. *** described retailers as taking all discounts into account when purchasing, and stated that it often needed to use large direct discounts to match Whirlpool's direct and indirect discounts. *** stated that indirect discounts do not have a large impact in their negotiations with customers.

Among purchasers, six described consideration of indirect discounts in their price negotiations. Three additional purchasers described some consideration of indirect discounts, but described them as "a minor consideration," "not very important," or "only one factor." *** elaborated that the importance of indirect discounts is lessened by being spread across all appliances and by being approximately the same from all suppliers. Four other purchasers (including ***) described little or no consideration of indirect discounts.

Producers and importers were asked whether, during their own internal deliberations on setting prices to retailers, indirect discounts are applied to individual SKUs or at a broader product level. *** stated that while indirect discounts are considered in terms of ***. Among importers, *** described its internal pricing and indirect discount processes as separate. *** stated that while it negotiates indirect discounts for all products combined, it allocates the discounts to product categories based on revenue and profitability. *** stated that it internally allocates indirect discounts to particular SKUs. ***, however, stated that it allocated by brand or product rather than by SKU. *** stated that its allocation process varied according to internal marketing goals.

Purchasers were more likely to report that, in their internal price deliberations, they applied indirect discounts at a broader level than at the level of an individual SKU. Six purchasers, including (***) generally applied indirect discounts at a broader level than an individual SKU, such as at the level of a class of appliances or all the products in a brand. However, *** did apply indirect discounts to specific items.²³

Producers, importers, and purchasers generally did not include a deduction from MAP prices to take into account indirect discounts. Among producers, *** indicated that they did not negotiate prices by discussing expected profit margins as a percentage of MAP. *** stated that its independent wholesalers determine retail price, and *** stated that indirect discounts are applied at a broader level

²³ Other purchasers' answers to the question were not clear.

than individual SKUs. Among importers, ***²⁴ stated that they did not include a deduction from their MAP prices to take into account indirect discounts. *** stated that it did. Six purchasers reported that while they did negotiate prices by discussing profit off of MAP, they did not consider indirect discounts to these margins during the negotiations. Additionally, *** stated that it does not consider indirect discounts when analyzing the profitability of a particular model. However, three²⁵ purchasers did include indirect discounts when negotiating margins off of MAP, and four purchasers did not negotiate prices through margins off of MAP.

Producers and importers were more likely to report negotiating for more floor-space, more end-cap space,²⁶ or other promotional considerations in exchange for indirect discounts than purchasers were. Among producers, *** stated that it may for ***. Among importers, *** indicated that such promotional considerations were not negotiated in exchange for indirect discounts, with *** elaborating that such considerations were negotiated with individual retailers. However, *** stated that they did negotiate promotional considerations or floor space at the same time as indirect discounts. *** explained that it offered display discounts based on minimum floor requirements. However, eleven purchasers stated they did not negotiate more floor-space or other considerations in exchange for indirect discounts, while three (***) stated that they did (although *** described the frequency of doing so as “on occasion”). Those that did not explained that floor space was based on model profitability, offering a variety of models to consumers, and consumer demand.

End-of-model discounts

As described by *** and other market participants, prices for a particular model tend to decrease over time as part of the lifecycle of that bottom mount refrigerator model. As new models are introduced with new and innovative features, prices tend to decline on older models with older features. Market participants generally described these price declines as somewhat important to their sales or purchases.

Producers and importers often reported providing price reductions or discounts for bottom mount refrigerator models that are nearing the end of their life-cycle. Among producers, *** stated that *** did not, while *** stated that *** did. *** described the life cycle of a model as typically two to three years (with a maximum of six years) due to when a model transitions off a retailer’s floor. *** added that the discount *** provides will vary by retailer, with ***.

Among importers, six stated that they did provide price reductions for products nearing the end of their life-cycle. *** stated that such discounts can vary by customer and model, and described the average product life cycle as three years, though it can range from one to five years. *** indicated the market conditions also determine such discounts, and explained that more expensive models may have shorter life cycles than less expensive ones. *** described the typical product life cycle as two years. It added that its discounts will range from *** percent, though it tries to minimize such discounts by working with the retailer to manage the retailer’s inventory. *** stated that *** percent of its 2011 sales were market down due to end-of-life. Similarly, *** stated that model lifecycles are usually about two years, its markdowns are usually *** percent, and approximately *** percent of its typical bottom mount refrigerator sales are end-of-life.

Nine purchasers described end-of-model discounts as “somewhat” important in price negotiations, three described them as “very” important, and five regarded them as “not at all” important. *** noted that it generally *** in price negotiations. *** stated that *** firms can not take advantage of

²⁴ ***

²⁵ One of these three, ***, stated that “to some extent” indirect discounts affect profit margin expectations.

²⁶ End-cap space is the space at the end of a retailer's aisle, and is considered a desirable location to have product placed. See ***.

end-of-model opportunities, which it described as profit opportunities for smaller companies. *** indicated that taking advantage of a product’s lifecycle can be important in maximizing sales.

End of model discounts, however, do not necessarily mean that bottom mount refrigerator prices decline over time. Whirlpool explained that in order to have long-term falling prices for any product, manufacturers need to have increasing cost efficiencies. Whirlpool added that with rising metals and plastics prices (key inputs in appliances), appliance prices were not likely to fall.²⁷ (See appendix E comparing appliance prices to personal computer prices). As appendix E shows, LG is correct that major household appliance prices fell over 2008-2011.²⁸ However, appliance prices may have stabilized or risen at the end of 2011, and the longer-term price trends of major appliances does not show the same kind of precipitous decline as does that of personal computers.

Promotional Discounts

As discussed in part II, the bottom market refrigerator market is frequently subject to large volume retail sales at discounts during promotional holidays such as Black Friday, Memorial Day, and the Fourth of July. Commission questionnaires requested data on producers’ and importers’ promotional discounts. These data are summarized in table V-1.

Respondents stated that Whirlpool did not provide data on all of its promotions, and/or did not provide such data accurately. Samsung stated that Whirlpool had not reported its “off-MAP” discounts, i.e., unadvertised, in-store holiday promotions, ***,²⁹ Additionally, ***,³⁰ Whirlpool characterized respondents’ allegations as “simply false,” and explained that its accounting system does not track promotional sales, so it based its data on comparisons of promotional and pre-promotional periods.³¹

Average MAP discounts and volume under promotion increased for all reporting firms between 2009 and 2011. ***.

**Table V-1
Bottom mount refrigerators: promotional data from producers and importer, 2009-2011.**

* * * * *

In addition to the data supplied for table V-1, parties supplied estimates of their promotional sales in their posthearing briefs. Home Depot stated that approximately *** percent of its total sales of bottom mount refrigerators came on its promotional events on Memorial Day, Fourth of July, Labor Day, and Black Friday. It added that approximately *** percent of its sales of Whirlpool bottom mount refrigerators came on those days, compared to *** percent of its sales of LG bottom mount refrigerators.³² *** estimated that in 2011, 8.8 percent of its total bottom mount refrigerator sales were made at promotional prices during promotional periods, up from *** percent in 2009.³³

²⁷ Hearing transcript, p. 68 (Bitzer).

²⁸ Posthearing brief of LG, appendix E p. 12.

²⁹ Prehearing brief of Samsung, p. 21, fn. 14, and exhibits 8-12, posthearing brief of Samsung, pp. A-10 and A-40. Samsung described in-store promotions as used by retailers mostly to meet manufacturer volume targets.

³⁰ Prehearing brief of Home Depot, p. 6. ***. Prehearing brief of Home Depot, p. 7 and exhibits 2 and 3.

³¹ Petitioner’s posthearing brief, p. II-3.

³² Posthearing brief of Home Depot, p. 10.

³³ Posthearing brief of LG, appendix F.

Price Leaders

Thirteen purchasers named price leaders in the bottom mount refrigerator market, with most purchasers naming multiple suppliers. Nine named Whirlpool, seven named LG, six named Samsung, and one named GE and Electrolux (in addition to other, smaller suppliers).

Among those naming just Whirlpool, *** stated that most suppliers follow Whirlpool price changes. *** stated that Whirlpool sets price trends for the market with its pricing and promotions. *** described Whirlpool as leading with price discounts on obsolete products and through rebates to end users. *** stated that Whirlpool has the largest market share and leads both price increases and decreases. Among purchasers naming only importers of subject product, *** described Samsung and LG as using frequent promotional discounts from MAPs. *** stated that Samsung had been the historical price leader by routinely pricing its product about \$100 lower (at retail) than comparable products, and by offering frequent national promotions at lower cost.

Among those naming Whirlpool as well as importers of subject product as price leaders, *** described Whirlpool, LG, and Samsung as creating consumer awareness of bottom mount refrigerators. It stated that while prices had been rising over the last three years, periodic promotions from these firms had driven consumer awareness. *** stated that LG had led prices upward by introducing products with new features at higher price points. It added that Whirlpool *** had led prices down ***. *** indicated that Whirlpool *** had led prices lower by introducing a *** at \$*** and then introducing a *** at \$*** on Black Friday. It added that Electrolux *** introduced the lowest-price ***. However, it also described LG and Samsung as “the most promotional brands” with holiday reductions that other suppliers then follow. *** indicated that Electrolux, GE, LG, Samsung, and Whirlpool were all price leaders that had led at various times by offering discounts.

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 2009-December 2011, 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.
- 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's highest-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 24.5 - 26.4 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 - 24.4 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 in the preliminary phase of the investigations. Products 2 and 3 as well as products 4 and 5 are similar but for (1) products 3 and 5 having somewhat larger capacities than products 2 and 4 respectively and (2) products 3 and 5 having dual evaporators while products 2 and 4 have single evaporators. 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.'"³⁴ Thus, the 'A' products represent all SKUs for a given product description, while the 'B' products represent only the highest-volume SKU for each quarter.

Also in the preliminary phase of the investigations, respondents suggested that data be requested for all SKUs of the petitioner's suggested products, and also suggested products 6A and 7A. In the final phase of the investigations, respondents requested that the definitions of products 6A and 7A have more restricted sizes.³⁵ The final phase's product 6A is defined the same as the preliminary phase's, except that it only includes product with a volume of at least 24.5 cubic feet. Similarly, the final phase's product 7A

³⁴ Petition, p. 129.

³⁵ See LG's comments on draft questionnaires, p. 20. ***.

is defined the same as the preliminary phase's definition except that it includes only product up to 24.4 cubic feet. Because of this change, ***.³⁶

Price Data and Discounts

Pricing data were asked at four levels: MAP prices, invoice prices, prices net of direct discounts, and prices net of direct and indirect 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.³⁷ In the preliminary phase, questionnaires requested pricing data net of direct discounts but not indirect discounts. However, respondents stated that the proper way to analyze the pricing data is to compare prices net of all discounts, direct and indirect.³⁸ In its preliminary phase opinion, the Commission stated that it would examine whether the prices used in quarterly pricing comparisons should be net of indirect discounts.³⁹

Thus, to understand the nature and size of discounts in the bottom mount refrigerator industry, Commission questionnaires requested data on discounts from producers, importers, and purchasers. Tables V-2 to V-4 summarize these discount data, and how those discounts are applied to Commission pricing products. Tables V-2 and V-3 summarize producer and importer data on direct and indirect discounts for bottom mount refrigerators, the pricing products for bottom mount refrigerators, all refrigerators, and other goods sold by producers and importers. Table V-4 shows purchasers' reported discounts on all products, refrigerators, and bottom mount refrigerators, for 2010 and 2011. Table V-4 shows larger discounts by *** than ***, while tables V-2 and V-3 show more mixed results depending on whether one examines direct discounts or indirect discounts.

Respondents and petitioner questioned whether each other had submitted pricing data correctly net of discounts.⁴⁰ Commission staff verified petitioner's and importers' pricing data.⁴¹

Table V-2
Bottom mount refrigerators: Producers' direct and indirect discounts, 2009-2011.

* * * * *

Table V-3
Bottom mount refrigerators: Importers' direct and indirect discounts, 2009-2011.

* * * * *

As can be seen in tables V-2 and V-3, questionnaire respondents' discounts on pricing products tended to be similar to their discounts on other bottom mount refrigerators. For U.S. producers, discounts on bottom mount refrigerators were often somewhat higher than discounts on other products. However,

³⁶ ***. LG provided an analysis of NPD prices for a more expansive definition of product 7A and 7B (including the *** products not provided in the final) in its posthearing brief at appendix A, p. 2.

³⁷ Petition, p. 129.

³⁸ LG's postconference brief, p. 20, and ***, April 26, 2011.

³⁹ USITC Publication 4232, May 2011, p. 22 fn. 144.

⁴⁰ For example, see hearing transcript p. 76 (Greenwald), petitioner's prehearing brief, pp. 7 and II-7, and posthearing brief of Samsung, p. 58.

⁴¹ ***.

for importers, indirect discounts on bottom mount refrigerators were closer to their discounts on other products.

Table V-4
Bottom mount refrigerators: Purchasers' reported discounts as a percent of all purchases.

* * * * *

Price Trends and Comparisons

Pricing data for prices net of direct discounts are presented in tables V-5 to V-18 and figure V-2. A summary of price trends is presented in table V-19. Pricing data for prices net of direct and indirect discounts are presented in tables V-20 to V-33 and figure V-3. (Graphed volumes will be unaffected by the type of discount used, and so volumes are the same as in figure V-2.) A summary of these price trends is presented in table V-34. Prices at all levels (i.e., MAP, invoice, net of direct discounts, and net of direct and indirect discounts), as well as margins off of those levels, for U.S., Korean, and Mexican pricing products are available in appendix F.

***⁴² provided usable⁴³ pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.⁴⁴ Pricing data reported by these firms 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,⁴⁵ and *** percent of U.S. shipments of subject imports from Mexico in 2011.⁴⁶

Home Depot, LG, Samsung, and Whirlpool stated that price comparisons should be performed with data that are net of direct and indirect discounts. Samsung stated that indirect discounts are ***.⁴⁷ Whirlpool stated that while pricing net of direct and indirect discounts is the most accurate way of looking at purchasers' decisions, some purchasers may have weighed indirect discounts less than their full value due to uncertainty over whether they will meet end-of-year volume targets.⁴⁸

Table V-5
Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct discounts) and quantities of domestic and imported product 1A,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

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 *** in *** data for product 1A.

⁴² ***

⁴³ ***.

⁴⁴ Pricing data submitted by *** in the final phase of the investigations were different than the pricing data that they submitted in the preliminary phase of the investigations. (The differences were not often large.) ***.

⁴⁵ ***.

⁴⁶ These estimates use only the quantities of the "A" products, as the "B" products are included in the "A" products.

⁴⁷ Prehearing brief of Home Depot, p. 8, prehearing brief of LG, p. 26, and prehearing brief of Samsung, pp. 24-25.

⁴⁸ Hearing transcript, pp. 76-77 (Greenwald and Bitzer).

Table V-6

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct discounts) and quantities of domestic and imported product 1B,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Table V-7

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct discounts) and quantities of domestic and imported product 2A,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

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. ***.⁴⁹ ***.⁵⁰

Table V-8

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct discounts) and quantities of domestic and imported product 2B,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Table V-9

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct discounts) and quantities of domestic and imported product 3A,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

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, and ***.

Table V-10

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct discounts) and quantities of domestic and imported product 3B,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Table V-11

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct discounts) and quantities of domestic and imported product 4A,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

⁴⁹ Prehearing brief of LG, p. 31.

⁵⁰ ***.

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.

***.⁵¹

Table V-12

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct discounts) and quantities of domestic and imported product 4B,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Table V-13

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct discounts) and quantities of domestic and imported product 5A,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Data for products 5A and 5B were provided by ***. For *** product 5B was *** for ***, and for *** used to provide data for product 5A. ***.⁵²

Table V-14

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct discounts) and quantities of domestic and imported product 5B,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Table V-15

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct discounts) and quantities of domestic and imported product 6A,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Data for products 6A and 6B were provided by ***. For *** product 6B was *** used to provide data for product 6A, while for *** used to provide data for product 6A, while product 6B was *** in *** data for product 6A. The data submitted by *** is for a model with a capacity of *** cubic feet. *** did not include this product in product 3A and 3B ***.

Table V-16

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct discounts) and quantities of domestic and imported product 6B,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

⁵¹ ***.

⁵² Commission staff conversation with ***.

Table V-17

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct discounts) and quantities of domestic and imported product 7A,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Data for products 7A and 7B were provided by ***.⁵³ ⁵⁴ The data submitted by *** is for a model with a volume of 25 cubic feet. ***.⁵⁵ For *** product 7B was ***, for *** product 7B was *** submitted for product 7B, and for ***, ***.

Table V-18

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct discounts) and quantities of domestic and imported product 7B,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Figure V-2

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct discounts) and quantities of products 1A-7B, January 2009-December 2011

* * * * *

Table V-19

Bottom mount refrigerators: Summary of weighted-average f.o.b. prices (net of direct discounts) for products 1A-7B from the United States, Korea, and Mexico

* * * * *

Table V-20

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct and indirect discounts) and quantities of domestic and imported product 1A,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Table V-21

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct and indirect discounts) and quantities of domestic and imported product 1B,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

⁵³ ***.

⁵⁴ In the preliminary phase, *** also provided data for a similar product; the product definition has changed for this final phase.

⁵⁵ See ***.

Table V-22

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct and indirect discounts) and quantities of domestic and imported product 2A,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Table V-23

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct and indirect discounts) and quantities of domestic and imported product 2B,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Table V-24

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct and indirect discounts) and quantities of domestic and imported product 3A,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Table V-25

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct and indirect discounts) and quantities of domestic and imported product 3B,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Table V-26

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct and indirect discounts) and quantities of domestic and imported product 4A,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Table V-27

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct and indirect discounts) and quantities of domestic and imported product 4B,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Table V-28

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct and indirect discounts) and quantities of domestic and imported product 5A,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Table V-29

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct and indirect discounts) and quantities of domestic and imported product 5B,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Table V-30

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct and indirect discounts) and quantities of domestic and imported product 6A,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Table V-31

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct and indirect discounts) and quantities of domestic and imported product 6B,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Table V-32

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct and indirect discounts) and quantities of domestic and imported product 7A,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Table V-33

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct and indirect discounts) and quantities of domestic and imported product 7B,¹ and margins of (overselling)/underselling by quarters, January 2009-December 2011

* * * * *

Figure V-3

Bottom mount refrigerators: Weighted-average f.o.b. prices (net of direct and indirect discounts) and quantities of products 1A-7B, January 2009-December 2011

* * * * *

Table V-34

Bottom mount refrigerators: Summary of weighted-average f.o.b. prices (net of direct and indirect discounts) for products 1A-7B from the United States, Korea, and Mexico

* * * * *

Price Comparisons

Margins of underselling and overselling for the period are presented in tables V-35 (for prices net of direct discounts) and V-34 (for pricing net of direct and indirect discounts). 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 tables, the amount of overselling relative to underselling was greater for the “B” products than for the “A” products, whether or not indirect discounts are included.

Table V-35

Bottom mount refrigerators: Instances of underselling/overselling for prices net of direct discounts and the range and average of margins, January 2009-December 2011

* * * * *

Table V-36

Bottom mount refrigerators: Instances of underselling/overselling for prices net of direct and indirect discounts and the range and average of margins, January 2009-December 2011

* * * * *

Other Data

The NPD Group, a retail market research information firm, collects and provides data on the retail price of bottom mount refrigerators. These data come from retailers that participate with point-of-sale data (including Best Buy, Lowe's, and Sears) and those that participate with projections (including Brandsmart). However, the data do not include data from Home Depot nor all of Sears' sales of Kenmore-branded product.⁵⁶ Both the petitioner and respondents performed analysis based on NPD data.

Petitioners submitted NPD data for 2008 through 2011. These data cover 2,552 individual SKUs, including 792 SKUs with at least 15 months of observations. Of those 792 SKUs, 260 were for Whirlpool products, 80 were for LG products, 103 were for Samsung products, 148 were for GE products, and 201 were for products from other manufacturers/ brands including Bosch, Frigidaire, Electrolux, and Kenmore, among others.

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 (for the preliminary phase of the investigations) and since January 1, 2009 (for the final phase of the investigations). ***.

Lost Sales

*** reported a lost sale with ***. In this allegation, *** stated that ***.⁵⁷

***⁵⁸ ***.⁵⁹

***.

⁵⁶ Petitioner's posthearing brief, p. II-4.

⁵⁷ Petition, p. 132 and ***.

⁵⁸ ***. However, petitioner ***.

⁵⁹ Commission staff telephone interview with ***, April 28, 2011.

***⁶⁰ ***.

***⁶¹.

***⁶².

***⁶³ ***⁶⁴ ***⁶⁵.

Lost Revenues

In the petition, 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-37. As can be seen from the table, purchasers were somewhat more likely to report that Whirlpool had reduced its prices than not (12 “yes” responses to 8 “no” responses), but slightly more likely to report that Korean producers had not reduced prices (10 “yes” responses to 11 “no” responses). ***.

Table V-37
Bottom mount refrigerators: U.S. producers’ lost revenue allegations with responses from purchasers

* * * * *

⁶⁰ ***.

⁶¹ The previous discussion is based on ***.

⁶² ***.

⁶³ The previous discussion is based on ***.

⁶⁴ For purposes of this discussion, “bidding” was defined as having filled out the “first cost” line in the SSSI sheet.

⁶⁵ These numbers are slightly different than the numbers in LG’s prehearing brief because Commission staff did not count ***. See LG’s prehearing brief, p. 60.

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 less than *** percent of the industry's 2011 sales values, while *** reported transfers to related firms (approximately *** percent of combined sales value of 2011). The unit sales values of *** were lower than the unit sales values of its commercial sales between 2009 and 2011.²

The questionnaire data of Whirlpool were verified with its company records at its counsel office. The verification update was incorporated in this final report.³

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 2009 and 2011, despite increased sales quantities and values, from an operating income of \$*** in 2009 to an operating loss of \$*** in 2011, due mainly to the decreased average unit value ("AUV") of net sales and the increased unit total cost over the period. Most of the deterioration occurred from 2010 to 2011, even though the AUV increased slightly (while net sales quantities and values decreased somewhat), average unit total costs increased substantially during the same period, specifically, an increase in the AUV (\$*** per unit) as well as an increase in unit total cost (\$*** per unit), i.e., cost of goods sold ("COGS") and selling, general, and administrative ("SG&A") expenses combined, resulted in a further increased operating loss in 2011 (an operating loss of \$*** per unit compared to an operating loss of \$*** per unit in 2010). Operating income margins continuously decreased from *** percent in 2009 to *** percent in 2010 and *** percent in 2011.

Table VI-1

Bottom mount refrigerators: Results of operations of U.S. producers, fiscal years 2009-11

* * * * *

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 2009 and 2011 (except *** increased sales value in 2011). *** sales quantities and values increased from 2009 to 2010 and then decreased from 2010 to 2011. The unit sales values, unit COGS and unit SG&A of *** are much higher compared to those of ***, due primarily to product mix. Further, the sales quantities and values of *** are very small to compared to sales volume and values of ***. Therefore, it may not be advisable to compare unit values of industry across the three producers.

¹ All three producers have their fiscal years end on December 31. Two other producers, ***, submitted questionnaire responses. However, their responses were not used because ***.

² ***. E-mails from ***, February 2, 2012 and April 21, 2011.

³ Commission staff conducted a verification of Whirlpool's questionnaire response on March 6-7, 2012. ***.

While per-unit direct labor costs remained relatively small and the same level over the period, per-unit raw materials and factory overhead costs increased substantially from 2010 to 2011, due mainly to *** during the period.⁴ Per-unit SG&A expenses increased somewhat between 2009 and 2011.⁵ ***. While ***.

Table VI-2
Bottom mount refrigerators: Results of operations of U.S. producers, by firm, fiscal years 2009-11

* * * * *

Selected aggregate per-unit cost data of the producers on their operations, including COGS and SG&A expenses, are presented in table VI-3. Overall unit COGS and total cost (which includes SG&A expenses) increased from 2009 to 2011, driven mainly by changes in raw materials and other factory costs as explained previously.

Table VI-3
Bottom mount refrigerators: Average unit costs of U.S. producers, fiscal years 2009-11

* * * * *

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-4.⁶ The summary at the bottom of the table indicates that from 2009 to 2011 the negative effects of both decreased prices and increased costs/expenses resulted in the decreased operating income, i.e., changed from an operating income in 2009 to an operating loss in 2011. The variance analysis indicates that the decrease in operating income of \$*** between 2009 and 2011 resulted from the combined negative effects of decreased price (\$***) and increased costs/expenses (\$***), despite a small positive volume variance (\$***).

Table VI-4
Bottom mount refrigerators: Variance analysis of operations of U.S. producers, fiscal years 2009-11

* * * * *

⁴ ***. E-mail from ***, February 2, 2012.

⁵ ***. Based on Whirlpool's Form 10-K for the fiscal year ended December 31, 2011 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, ***. E-mails from ***, February 2, 2012 and April 21, 2011.

⁶ 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.

*** earned Energy Efficient Appliance Federal Tax Credits for bottom mount refrigerators while
***. ***.⁷

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 all three producers reported capital expenditures, the majority were spent by *** during the period for which data were collected. While capital expenditures increased substantially from 2010 to 2011, R&D expenses increased throughout this period. Data for capital expenditures on a firm-by-firm basis are shown in table VI-6.

Table VI-5
Bottom mount refrigerators: Capital expenditures and R&D expenses by U.S. producers, fiscal years 2009-11

* * * * *

Table VI-6
Bottom mount refrigerators: Capital expenditures by U.S. producers, by firms, fiscal years 2009-11

* * * * *

ASSETS AND RETURN ON INVESTMENT

Table VI-7
Bottom mount refrigerators: Value of assets and return on investment of U.S. producers, fiscal years 2009-11

* * * * *

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.—***

⁷ In its questionnaire response submitted on January 27, 2012, ***. See petitioner's postconference brief, part II, question 7 and answer to question III-16 in the questionnaire response. Even if such credits were claimed and used, and they would be only applied to income taxes and would not affect the operating results.

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 factors¹--

(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

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.”

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), (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 foreign producer questionnaire 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 2011 capacity, production, and export shipment data for the individual firms.

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, 2011

Producer	Share of reported 2011 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 2011, *** 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 2009 to 2011. LG Korea's reported capacity *** from 2009 to 2011 and is projected to *** in 2012.⁶ Its production increased by *** percent from 2009 to 2011, and is projected to *** from 2011 to 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 2011, *** 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 2009 to 2011. Samsung Korea's reported capacity increased by *** percent from 2009 to 2011 and is projected to *** in 2012.⁸ Its production decreased by *** percent from 2009 to 2011, and is projected to *** from 2011 to 2012.⁹ Samsung Korea reported that it shipped to *** U.S. importers of bottom mount refrigerators during the period of investigation, ***.

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.

Table VII-2 presents cumulative data for reported capacity, production, and shipments of bottom mount refrigerators for all reporting producers in Korea. Cumulatively, exports to the United States from Korean producers increased by *** percent from 2009 to 2011. Capacity in Korea increased by *** percent from 2009 to 2011 and is projected to *** in 2012. Production in Korea increased by *** percent from 2009 to 2011, and is projected to *** from 2011 to 2012.

Table VII-2
Bottom mount refrigerators: Korea’s reported production capacity, production, shipments, and inventories, 2009-2011, and projections for 2012 and 2013

* * * * *

THE INDUSTRY IN MEXICO

The Commission received responses from six 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) Fisher & Paykel Appliances, Inc. (“Fisher & Paykel”); (3) LG Electronics Monterrey Mexico S.A. de C.V. (“LG Mexico”);¹⁰ (4) Mabe S.A. de C.V. (“Mabe”);¹¹ (5) Samsung Electronics Mexico S.A. de C.V. (“Samsung Mexico”),¹² and (6) Industrias Acros Whirlpool S.A. de C.V. (“Whirlpool Mexico”). Table VII-3 shows 2011 capacity, production, and export shipment data for the individual firms.

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.

Table VII-3

Bottom mount refrigerators: Mexico’s reported production capacity, production, and shipments, by firm, 2011

Producer	Share of reported 2011 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	***	***	***	***	***	***
Fisher & Paykel	***	***	***	***	***	***
LG Mexico	***	***	***	***	***	***
Mabe	***	***	***	***	***	***
Samsung Mexico	***	***	***	***	***	***
Whirlpool Mexico	***	***	***	***	***	***
Total	100.0	***	***	***	***	***

Source: Compiled from data submitted in Commission questionnaire responses.

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 2011, *** 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 2011. Electrolux Mexico’s reported capacity increased by *** percent from 2009 to 2011 and is projected to *** from 2011 to 2012.¹³ Its production increased by *** percent from 2009 to 2011, and is projected to *** from 2011 to 2012.¹⁴ Electrolux Mexico reported that it shipped to *** U.S. importer of bottom mount refrigerators during the period of investigation, ***.

Fisher & Paykel

Fisher & Paykel reported that ***. It stated that its 2011 capacity and production was *** units and *** units, respectively. In 2012, it has projected a capacity of *** units and production of *** units and intends to export *** percent of its shipments to the United States with the remaining shipments projected ***. Fisher & Paykel reported that it shipped to *** U.S. importer of bottom mount refrigerators during the period of investigation, ***.

¹³ Electrolux Mexico reported that ***. Foreign producer questionnaire response of Electrolux Mexico, question II-3.

¹⁴ Electrolux Mexico reported that ***. Foreign producer questionnaire response of Electrolux Mexico, questions II-4-II-6.

LG Mexico

LG Mexico reported that *** percent of its total sales in the most recent fiscal year were sales of bottom mount refrigerators. In 2011, *** 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 2009 to 2011. LG Mexico's reported capacity *** from 2009 to 2011 and is projected to *** in 2012. Its production increased by *** percent from 2009 to 2011, and is projected to *** in 2012.¹⁵ 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 2011, *** 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 increased by *** percent from 2009 to 2011. Mabe's reported capacity increased by *** percent from 2009 to 2011 and is projected to *** from 2011 to 2012. Its production increased by *** percent from 2009 to 2011, and is projected to *** from 2011 to 2012.¹⁶ 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 2011, *** 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 2011. Samsung Mexico's reported capacity increased by *** percent from 2009 to 2011 and is projected to *** in 2012. Its production increased by *** percent from 2009 to 2011, and is projected to *** from 2011 to 2012.¹⁷ Samsung Mexico reported that it shipped to *** U.S. importers of bottom mount refrigerators during the period of investigation, ***.

Whirlpool Mexico

Whirlpool Mexico reported that ***. Whirlpool Mexico stated that its 2011 capacity and production was *** units and *** units, respectively. In 2012, it has projected a capacity of *** units and production of *** units and intends to export *** percent of its shipments to the United States with the remaining shipments projected *** percent) and the *** percent). Whirlpool Mexico reported that it shipped to *** U.S. importer 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

¹⁵ LG Mexico reported that ***. Foreign producer questionnaire response of LG Mexico, questions II-4 and II-6.

¹⁶ Mabe reported that ***. Foreign producer questionnaire response of Mabe, questions II-4 and II-6.

¹⁷ Samsung Mexico reported that ***. Foreign producer questionnaire response of Samsung Mexico, questions II-4 and II-6.

Mexican producers increased by *** percent from 2009 to 2011. Capacity in Mexico increased by *** percent from 2009 to 2011 and is projected to *** from 2011 to 2012. Production in Mexico increased by *** percent from 2009 to 2011, and is projected to *** from 2011 to 2012.

Table VII-4

Bottom mount refrigerators: Mexico's reported production capacity, production, shipments, and inventories (excluding Mabe), 2009-2011 and projections for 2012 and 2013

* * * * *

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, 2009-2011

* * * * *

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, 2011. *** U.S. importers stated that they had imported or arranged for importation since December 31, 2011. 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, 2011, 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.

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.’”¹⁸

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. Exports of *bottom mount* refrigerators from nonsubject countries accounted for a small share of total exports of combination refrigerator-freezers during the period of investigation. Most exports from nonsubject countries discussed in this section are of top mount and side-by-side model configurations. 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.¹⁹ 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, 2011**

Exporting country	Top export market	Share of exports destined for top market (<i>percent</i>)
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 February 2, 2012), HTS 8418.10		

¹⁸ 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).

¹⁹ 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.²⁰ These data show that more than a twenty-four percent of total Chinese exports were destined for Japan in 2011. Other top export destinations included Italy, Russia, the United Kingdom, and France. Samsung reported that ***,²¹ LG also reported that ***,²²

Table VII-8
China's exports of combination refrigerator-freezers of all sizes, top export destinations, 2011

Export destination	Share of exports from China (<i>percent</i>)
Japan	24
Netherlands	6
United States	6
Italy	5
France	5
Russia	5
United Kingdom	4
Germany	4
Spain	4
South Africa	3

Source: Global Trade Atlas (accessed February 2, 2012), HTS 8418.10

According to the National Bureau of Statistics of China, the country's output of household refrigerators was 73.0 million units in 2010, the most recent year for which data were provided. This was up from 47.6million units in 2008.²³

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;²⁴ (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

²⁰ Global Trade Atlas (accessed February 2, 2012), HTS 8418.10

²¹ Samsung's foreign producer questionnaire response.

²² LG's importer questionnaire response.

²³ IBISWorld, *Major Household Appliance Manufacturing in the US*, December 2011.

²⁴ Datamonitor, "Haier Group," Company Profile, March 3, 2011, p. 5.

China.²⁵ 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, 2011

Export destination	Share of Japan's refrigerator exports (<i>percent</i>)
Taiwan	68
China	9
Russia	7
Singapore	5
Hong Kong	5
United States	2
Vietnam	2
Netherlands	1
United Arab Emirates	(¹)
Myanmar	(¹)
¹ Less than 0.5 percent. Source: Global Trade Atlas (accessed February 2, 2012), 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.²⁶ 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;²⁷ (2) Sanyo, which was acquired by Panasonic in 2009 but retains its own branded products;²⁸ 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

²⁵ Datamonitor, "Fisher & Paykel Appliances," July 26, 2011, p. 5.

²⁶ JEMA, "Maker List" for Home Electrical Appliances. Accessed (February 7, 2012) <http://www.jema-net.or.jp/English/products/index.html>

²⁷ Euromonitor Website <http://www.euromonitor.com/refrigeration-appliances-in-japan/report>

²⁸ Datamonitor, "Sanyo, Company Profile," March 11, 2011.

production to overseas factories and either imported back into Japan or shipped refrigerators directly to their intended overseas markets.²⁹

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, ***,³⁰ and (2) Electrolux, a subsidiary of Electrolux, which will begin refrigerator production of refrigerators in 2011.³¹

Table VII-10

Thailand's exports of combination refrigerator-freezers of all sizes, top export destinations, 2011

Export destination	Share of Thailand's exports (<i>percent</i>)
Australia	12
Vietnam	7
Malaysia	6
Indonesia	6
Singapore	5
Saudi Arabia	5
Japan	5
United Emirates	4
Philippines	4
South Korea	3
Source: Global Trade Atlas (accessed February 2, 2012), 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 JEMA, Annual Report 2009, (accessed May 5, 2011). <http://www.jema-net.or.jp/English/report/index.html>

³⁰ U.S. importer's questionnaire response of ***.

³¹ Datamonitor, "AB Electrolux, Company Profile, August 17, 2011, 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 February 2, 2012), HTS 8418.10	

The following firms 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;³² (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;³³ (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;³⁴ (4) Indesit, which is a producer of household appliances, including combination refrigerator-freezers based in Italy. Indesit has manufacturing facilities in Italy and Poland;³⁵ (5) Arcelik (based in Turkey), 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;³⁶ and the (7) Liebherr Group (based in Switzerland), is a worldwide leader in premium refrigerators (built-in and freestanding) with production plants in Germany and Austria. The Liebherr Group's primary refrigerator markets are in the EU, but does export to the United States. The

³² Electrolux's foreign producer questionnaire response.

³³ Datamonitor, "BSH Bosch und Siemens Hausgerate," November 24, 2011, p.6.

³⁴ DataMonitor, "Candy Hoover Group," Company Profile, November 17, 2011, p. 5.

³⁵ Datamonitor "Indesit Company," Company Profile, November 30, 2011, p. 5.

³⁶ Datamonitor, "Miele & Cie," Company Profile, September 26, 2011, p. 5.

Liebherr Group maintains a sales and distribution center in Scottsdale, AZ. Lastly, (7) Samsung, a subsidiary of the producer of bottom mount refrigerators in Korea, produces refrigerators in Poland.³⁷

South America

According to DataMonitor, producers of combination refrigerator-freezers in Brazil in 2010 include (1) AB Electrolux, (2) Controladora Mabe and (3) The Liebherr Group. Electrolux, a subsidiary of AB Electrolux is the largest producer of refrigerators in Brazil, all of which are destined for the domestic or South American markets. Controladora Mabe, also known as Mabe is the second largest domestic producer of refrigerators in Brazil and exports to other South American markets. The Liebherr Group based in Switzerland is a premium brand producer of freestanding refrigerators in Brazil and for other South American markets.³⁸ In 2010, Brazil was the 13th largest producer of combination refrigerators worldwide.³⁹

³⁷ Electrolux's foreign producer questionnaire response.

³⁸ Staff email response from officials at the Liebherr Group, February 7, 2012.

³⁹ Global Trade Atlas (accessed February 7, 2012), HTS 8418.10.

APPENDIX A
***FEDERAL REGISTER* NOTICES**

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)).

Issued: November 17, 2011.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–30184 Filed 11–22–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

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

Bottom Mount Combination Refrigerator-Freezers From Korea and Mexico; Scheduling of the Final Phase of Countervailing Duty and Antidumping Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation no. 701–TA–477 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation nos. 731–TA–1180–1181 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether 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 subsidized imports from Korea¹ and less-than-fair-value imports from Korea and 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.²

¹ Although the Department of Commerce has preliminarily determined that imports of bottom mount combination refrigerator-freezers from Korea are not being and are not likely to be subsidized by the Government of Korea, for purposes of efficiency the Commission hereby waives rule 207.21(b) so that the final phase of the investigations may proceed concurrently in the event that Commerce makes a final affirmative determination with respect to such imports. Section 207.21(b) of the Commission's rules provides that, where the Department of Commerce has issued a negative preliminary determination, the Commission will publish a Final Phase Notice of Scheduling upon receipt of an affirmative final determination from Commerce.

² For purposes of these investigations, the Department of Commerce has defined the subject merchandise as all bottom mount combination refrigerator-freezers and certain assemblies thereof from Korea and Mexico. For purposes of these 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; 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 these investigations, 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 these 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 petitions 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

For further information concerning the conduct of this phase of the investigations, hearing procedures, 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 C (19 CFR part 207).

DATES: *Effective Date:* November 2, 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.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that bottom mount combination refrigerator-freezers from Korea and Mexico are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on March 30, 2011, by Whirlpool Corporation, Benton Harbor, MI.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing

HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.

the names and addresses of all persons, or their representatives, who are parties to the investigations.

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 the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on February 28, 2012, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on March 13, 2012, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 8, 2012. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 12, 2012, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is March 6, 2012. Parties may also file written testimony in connection with their presentation at the hearing, as

provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 20, 2012; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before March 20, 2012. On April 10, 2012, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 12, 2012, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please consult the Commission's rules, as amended, 76 FR 61937 (Oct. 6, 2011) and the Commission's Handbook on Filing Procedures, 76 FR 62092 (Oct. 6, 2011), available on the Commission's Web site at <http://edis.usitc.gov>.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's 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 207.21 of the Commission's rules.

By order of the Commission.

Issued: November 17, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011-30185 Filed 11-22-11; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-478 (Final) and 731-TA-1182 (Final)]

Certain Steel Wheels From China; Scheduling of the Final Phase of Countervailing Duty and Antidumping Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701-TA-478 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation No. 731-TA-1182 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether 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 subsidized and less-than-fair-value imports from China of certain steel wheels, provided for in subheading 8708.70 of the Harmonized Tariff Schedule of the United States.¹

For further information concerning the conduct of this phase of the investigations, hearing procedures, 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 C (19 CFR part 207).

DATES: *Effective Date:* November 2, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202) 205-3193, 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

¹ For purposes of these investigations, the Department of Commerce has defined the subject merchandise as follows: "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."

Dated: March 16, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix

- I. Summary
- II. Subsidy Valuation Information
 - A. Period of Investigation
 - B. Cross-Ownership and Attribution of Subsidies
 - C. Allocation Period
 - D. Discount Rates and Interest Rate Benchmarks For Loans
 - E. Equityworthiness of DWJ and DWE
- III. Application of Facts Available, Including the Application of Adverse Inferences
- IV. Analysis of Programs
 - A. Programs Determined To Be Countervailable
 1. Restructuring of Daewoo Electronics Corporation
 - a. GOK Equity Infusions under the Daewoo Workout
 - b. GOK Preferential Lending under the Daewoo Workout
 2. KDB and IBK Short-Term Discounted Loans for Export Receivables
 3. K-SURE Short-term Export Insurance
 4. Tax Programs
 - a. Tax Reduction for Research and Manpower Development: RSTA 10(1)(3)
 - b. RSTA Article 25(2) Tax Deductions for Investments in Energy Economizing Facilities
 - c. RSTA Article 26 Tax Deduction for Facilities Investment
 - d. Gwangju Metropolitan City Production Facilities Subsidies: Tax Reductions/Tax Exemptions
 - e. Gyeongsangnam Province Production Facilities Subsidies: Tax Reductions/Tax Exemptions
 5. Grant Programs
 - a. GOK Subsidies for "Green Technology R&D" and its Commercialization
 - b. GOK 21st Century Frontier R&D Program/Information Display R&D Center Program
 - c. R&D Grants Discovered at Verification
 - B. Program Determined To Be Not Countervailable
 - Gyeongsangnam Province and KEMCO Energy Savings Subsidies/ESF Program
 - C. Programs Determined To Be Not Used
 1. KEXIM Programs
 - A. KEXIM Short-Term Export Credit
 - B. KEXIM Export Loan Guarantees
 - C. KEXIM Trade Bill Rediscounting Program
 - D. KEXIM Export Factoring
 2. K-SURE—Export Credit Guarantees
 3. Gwangju Metropolitan City Programs
 - A. Relocation Grants
 - B. Facilities Grants
 - C. Employment Grants
 - D. Training Grants
 - E. Consulting Grants
 - F. Preferential Financing for Business Restructuring
 - G. Interest Grants for the Stabilization of Management Costs
 - H. "Special Support" for Large Corporate Investors
 - I. Research and Development and Other Technical Support Services

4. 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. Financing for the Stabilization of Business Activities
 - H. Special Support for Large Companies
5. Other GOK Programs
 - 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. Targeted Facilities Subsidies through Korea Finance Corporation (KofC), KDB, and IBK "New Growth Engines Industry Fund"
 - D. GOK Green Fund Subsidies
 - E. IBK Preferential Loans to Green Enterprises
 - F. Gwangju "Photonics Industry Promotion Project" (PIPP) Product Development Support
- V. Analysis of Comments
 - Comment 1: Whether RSTA Article 25(2) is *De Facto* Specific
 - Comment 2: Whether RSTA Article 25(2) relates to Subject Merchandise
 - Comment 3: Whether RSTA Article 26 Benefits are Specific
 - Comment 4: Whether RSTA Article 10(1)(3) is *De Facto* Specific
 - Comment 5: Whether the Gwangju Metropolitan City and Gyeongsangnam Province Production Facilities Tax Reductions/Tax Exemptions are Specific
 - Comment 6: Whether KDB/IBK Short-Term Discounted Loans for Export Receivables are Specific
 - Comment 7: Whether SEC Received KDB/IBK Short-Term Discounted Loans for Export Receivables
 - Comment 8: Whether D/A and O/A Financing Were Provided in Accordance With Market Interest Rates
 - Comment 9: Whether K-SURE Charged Adequate Premiums in a Way that Covers Its Long-Term Costs and Losses
 - Comment 10: Whether the Department Should Apply AFA to Calculate a Benefit to SEC from the K-SURE Export Insurance Program
 - Comment 11: Whether SEC's K-SURE Payouts Relate to Subject Merchandise
 - Comment 12: Whether K-SURE Benefits Granted to SEC's U.S. Affiliate Are Countervailable
 - Comment 13: Whether the Green Technology R&D Program is Countervailable
 - Comment 14: Whether Green Technology R&D Grants are tied to Non-Subject Merchandise
 - Comment 15: Whether AFA Should be Applied to Grants Received by LGE from the 21st Century Frontier R&D Program
 - Comment 16: Whether the Department Should Revise the Denominator Used to Calculate the Subsidy Rate for LGE's Use of the "Green Technology R&D" Program

- Comment 17: Whether Grants Received by SGEN for Refrigerator Compressor R&D are Countervailable
- Comment 18: Whether the Department Should Apply AFA to Grants Received by SGEN for Refrigerator Compressor R&D
- Comment 19: Whether the Department Should Revise Sales Denominators to Reflect Changes from Verification
- Comment 20: Whether there is Cross Ownership Among All of the Companies in the Samsung Group
- Comment 21: Whether the Attribution Rules Were Correctly Applied to the Calculation of Benefits to SGEN, SEL and SEC
- Comment 22: Whether the Department Should Attribute Any Subsidies Received by ServeOne to LGE
- Comment 23: Whether the Department Should Continue to Find that SEC did not Use Other Programs
- Comment 24: Whether Government Ownership Alone Transforms a Financial Institution Into a Government Authority
- Comment 25: Whether the Department Properly Analyzed DWJ's Restructuring and Debt Adjustment under CRPA
- Comment 26: Whether Private Investor Participation on DWJ/DWE's Creditors' Council Provides a Benchmark
- Comment 27: Whether the Department's Analysis of the 2001 and 2002 Debt Restructuring Was Correct
- Comment 28: Equityworthiness of DWJ/DWE at the Time of the 2001 and 2002 Debt-to-Equity Conversions
- Comment 29: Whether the GOK and FSS Used KAMCO to Gain Control of DWJ/DWE's Creditors' Council
- Comment 30: Whether the Department Should Establish a Zero Cash Deposit Rate for DWE
- Comment 31: Whether the GOK-owned Creditors Held a Supermajority in DWE's 29th Creditors' Council Meeting
- Comment 32: Whether the Reclassification of the KAMCO-Held Debentures to Long-Term Loans Results in a Countervailable Benefit
- Comment 33: Whether Private Creditors Restructured Their Loans on the Same Basis and on the Same Terms

[FR Doc. 2012-7217 Filed 3-23-12; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-865]

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

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

SUMMARY: We determine that imports of narrow bottom mount combination refrigerator-freezers (bottom mount refrigerators) from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). In addition, we determine that there is no reasonable basis to believe or suspect that critical circumstances exist with respect to the subject merchandise exported from Korea.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margins for the investigated companies are listed below in the section entitled "Final Determination Margins."

DATES: *Effective Date:* March 26, 2012.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood or Henry Almond, 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) 482-3874 and (202) 482-0049, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 2, 2011, the Department published in the *Federal Register* the preliminary determination of sales at LTFV in the antidumping duty investigation of bottom mount refrigerators from Korea.¹ Since the preliminary determination, the following events have occurred.

In November 2011, we issued supplemental questionnaires to two respondents, LG Electronics, Inc. (LG), and Samsung Electronics Co., Ltd. (Samsung), and we received responses to these supplemental questionnaires in this same month.

In November and December 2011, we verified the questionnaire responses of three respondents in this case, Daewoo Electronics Corporation (Daewoo), LG, and Samsung, in accordance with section 782(i) of the Act.

In January 2012, the Government of Korea submitted comments on certain aspects of the Department's preliminary determination.

In February 2012, Whirlpool Corporation (hereafter, the petitioner) and two of the three respondents submitted case and rebuttal briefs. Daewoo submitted only a rebuttal brief. Also in February 2012, the Department held a public hearing at the request of the petitioner and the three respondents.

Subsequent to the *Preliminary Determination*, the Department revised the computer programs used to calculate the respondents' dumping margins to ensure that they accurately reflected the methodological choices made in that determination. These revisions to the programming, had they been included in the preliminary determination, would not have altered the weighted-average dumping margins calculated there.²

Period of Investigation

The period of investigation (POI) is January 1, 2010, through December 31, 2010.

Scope of Investigation

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

- The cabinet contains at least two interior storage compartments accessible through one or more separate external doors or drawers or a combination thereof;
- An upper-most interior storage compartment(s) that is accessible through an external door or drawer is either a refrigerator compartment or convertible compartment, but is not a freezer compartment;³ and

² See March 16, 2012, Memoranda to the File entitled, "Calculations Performed for Daewoo Electronics Corporation (Daewoo) for the Final Determination in the Antidumping Duty Investigation of Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea," "Calculations Performed for LG for the Final Determination in the Antidumping Duty Investigation of Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea" (LG Calculation Memo), and "Calculations Performed for Samsung Electronics Corporation (Samsung) for the Final Determination in the Antidumping Duty Investigation of Bottom Mount Refrigerators from Korea" (Samsung Calculation Memo), which contain the revised preliminary antidumping duty margin program log and output for each respondent.

³ The existence of an interior sub-compartment for ice-making in an upper-most storage compartment does not render an upper-most storage compartment a freezer compartment.

- There is at least one freezer or convertible compartment that is mounted below an upper-most interior storage compartment(s).

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

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

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

Scope Comments

In the *Preliminary Determination*, we did not modify the description of the scope of this investigation in the manner requested by certain interested parties. Specifically, we did not modify the scope to be consistent with the Association of Home Appliance Manufacturers (AHAM) definition, nor did we exclude kimchi refrigerators or Quatro Cooling Refrigerators from the scope. We did, however, clarify the scope to eliminate any ambiguity with respect to the inclusion of Quatro Cooling Refrigerators in the scope of the investigation. See *Preliminary Determination*, 76 FR at 67677. No party

¹ See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Negative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea*, 76 FR 67675 (Nov. 2, 2011) (*Preliminary Determination*).

commented on our preliminary scope determination. Therefore, we made no further changes to the description of the scope, as stated in the *Preliminary Determination*.

Cost of Production

As discussed in the preliminary determination, we conducted an investigation to determine whether the respondents made comparison market sales of the foreign like product during the POI at prices below their COP within the meaning of section 773(b) of the Act. See *Preliminary Determination*, 76 FR 67684–85 (Nov. 2, 2011). For this final determination, we performed the cost test following the same methodology as in the *Preliminary Determination*.

We found that 20 percent or more of each respondent's sales of a given product during the POI were at prices less than the weighted-average COP for this period. Thus, we determined that these below-cost sales were made in "substantial quantities" within an extended period of time and at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. See sections 773(b)(1)–(2) of the Act.

Therefore, for purposes of this final determination, we found that each respondent made below-cost sales not in the ordinary course of trade. Consequently, we disregarded these sales and used the remaining sales as the basis for determining normal value for each respondent pursuant to section 773(b)(1) of the Act.

Targeted Dumping

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

In the *Preliminary Determination*, we conducted time-period targeted dumping analyses for LG and Samsung based on timely allegations of targeted dumping filed by the petitioner, using the methodology adopted in *Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value*, 73 FR 33985 (June 16, 2008), and *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical*

Circumstances, 73 FR 33977 (June 16, 2008), and applied in more recent investigations.⁴ As a result, we preliminarily determined that there was a pattern of U.S. prices for comparable merchandise that differed significantly among certain time periods for Samsung and LG, in accordance with section 777A(d)(1)(B)(i) of the Act.

Further, for both Samsung and LG, we found that the standard average-to-average methodology did not take into account the price differences because the alternative average-to-transaction methodology yielded a material difference in the margin. Accordingly, we preliminarily applied the average-to-transaction methodology to all U.S. sales made by LG and Samsung. See *Preliminary Determination*, 76 FR at 67678–67679.

For purposes of the final determination, we performed our targeted-dumping analysis following the methodology employed in the *Preliminary Determination*, after taking into account the petitioner's revised targeted dumping allegation with respect to Samsung, and making certain revisions to LG's and Samsung's reported U.S. sales data based on verification findings and other comments submitted by the parties, as enumerated in the "Margin Calculations" section of the "Issues and Decision Memorandum" (Decision Memorandum) from Gary Taverman, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Import Administration, to Paul Piquado, Assistant Secretary for Import Administration, dated March 16, 2012. In so doing, we found that the results of our final targeted-dumping analysis were generally consistent with those of our preliminary targeted-dumping analysis. Therefore, we continued to apply the alternative average-to-transaction methodology for LG's and Samsung's U.S. sales, in the final determination. See the LG Calculation Memo and the Samsung Calculation Memo for further discussion.

Critical Circumstances

In the *Preliminary Determination*, we found that critical circumstances do not exist with respect to imports of bottom

mount refrigerators produced in, and exported from, Korea. See *Preliminary Determination*, 76 FR at 67686–67687. Samsung submitted comments in support of our preliminary negative critical circumstances determination with respect to it, and reiterated, among other things, that its imports have not been massive since the filing of the petition.

For the final determination, we relied on updated shipment data provided by Daewoo, LG, and Samsung, which we examined at verification. Based on our analysis of these data and the comments submitted by the parties, we continue to find that critical circumstances do not exist with respect to imports of bottom mount refrigerators from Korea, as explained below.

Section 735(a)(3) of the Act provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that an increase in imports of 15 percent during the "relatively short period" of time may be considered "massive." Section 351.206(i) of the Department's regulations defines "relatively short period" as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later. The regulations also provide, however, that if the Department finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.

In determining whether the above criteria have been satisfied, we examined: (1) The evidence placed on the record by the respondents and the petitioner; and (2) the International

⁴ These investigations include *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia: Final Determination of Sales at Less Than Fair Value*, 75 FR 59223 (Sept. 27, 2010), and accompanying Issues and Decision Memorandum at Comment 1, and *Multilayered Wood Flooring From the Peoples' Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (Oct. 18, 2011), and accompanying Issues and Decision Memorandum at Comment 4.

Trade Commission's (ITC's) preliminary determination of injury (*see Bottom Mount Refrigerator Freezers from Mexico and Korea, Investigation Nos. 701-TA-477 and 731-TA-1180-1181 (Preliminary)*), 76 FR 29791 (May 23, 2011) (*ITC Preliminary Determination*)).

To determine whether there is a history of injurious dumping of the merchandise under investigation, in accordance with section 735(a)(3)(A)(i) of the Act, the Department normally considers evidence of an existing antidumping duty order on the subject merchandise in the United States or elsewhere to be sufficient.⁵ As mentioned in the *Preliminary Determination*, while the petitioner noted that New Zealand imposed antidumping duties on the subject merchandise produced in Korea in 2001, this order was terminated in 2006. Moreover, the petitioner did not identify any additional proceedings with respect to Korean-origin products, nor are we aware of any antidumping duty order in any country on bottom mount refrigerators from Korea. For this reason, the Department does not find a history of injurious dumping of the subject merchandise from Korea pursuant to section 735(a)(3)(A)(i) of the Act.

To determine whether the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at LTFV, and that there was likely to be material injury by reason of such sales in accordance with section 735(a)(3)(A)(ii) of the Act, the Department normally considers margins of 25 percent or more for export price (EP) sales or 15 percent or more for constructed export price (CEP) transactions sufficient to impute knowledge of dumping.⁶

The final dumping margin calculated for LG exceeds the threshold sufficient to impute knowledge of dumping (*i.e.*, 15 percent for CEP sales, which are the vast majority of the sales on which the calculation is based). Therefore, we

determine that there is sufficient basis to find that importers should have known that LG was selling the subject merchandise at LTFV pursuant to section 735(a)(3)(A)(ii) of the Act. For Daewoo and Samsung, we calculated final margins of *de minimis* and 5.16 percent, respectively, which do not meet the 15- and 25-percent thresholds necessary to impute knowledge of dumping for either CEP or EP sales. Finally, for the companies covered by the "All Others" rate, the final calculated dumping margin of 10.29 percent also does not meet the 15-percent threshold necessary to impute knowledge of dumping for CEP sales, which are the vast majority of the sales on which the calculation of the "All Others" rate is based. Therefore, we find that the importer knowledge criterion, as set forth in section 735(a)(3)(A)(ii) of the Act, has been met for LG, but has not been met for Daewoo, Samsung, and the companies covered by the "All Others" rate.

In determining whether an importer knew or should have known that there was likely to be material injury by reason of dumped imports, the Department normally will look to the preliminary injury determination of the ITC. If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that material injury is likely by reason of such imports. *See e.g., Certain Orange Juice from Brazil*. In the present case, the ITC preliminarily found reasonable indication that an industry in the United States is materially injured by imports of bottom mount refrigerators from Korea. *See ITC Preliminary Determination*. Based on the ITC's preliminary determination of injury, and the final antidumping margin for LG, the Department finds that there is a reasonable basis to conclude that the importer knew or should have known that there was likely to be injurious dumping of subject merchandise for these companies.

In determining whether there are "massive imports" over a "relatively short period," pursuant to section 735(a)(3)(B) of the Act, the Department normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the base period) to a comparable period of at least three months following the filing of the petition (*i.e.*, the comparison period). Accordingly, in determining whether imports of the subject merchandise have been massive, we based our analysis for each of the three

companies on shipment data for comparable seven-month periods preceding and following the filing of the petition.

Specifically, the Department requested and obtained from each of the respondents monthly shipment data from January 2008 to October 2011. To determine whether imports of subject merchandise have been massive over a relatively short period, we compared, pursuant to 19 CFR 351.206(h)(1)(i), the respondents' export volumes for the seven months before the filing of the petition (*i.e.*, September 2010–March 2011) to those during the seven months after the filing of the petition (*i.e.*, April through October 2011). These periods were selected based on the Department's practice of using the longest period for which information is available up to the date of the preliminary determination.⁷ According to the monthly shipment information, we found the volume of shipments of bottom mount refrigerators increased by more than 15 percent for LG.

For purposes of our "massive imports" determination, we also considered the impact of seasonality on imports of bottom mount refrigerators based on interested party comments and information contained in the ITC's preliminary determination. In order to determine whether the seasonality factor accounted for the increase in imports observed for each of the respondents in the post-petition filing period (the comparison period), we analyzed company-specific shipment data for a historical three-year period, where possible, using the same base and comparison time periods noted above. As a result of this analysis, we found that there is a consistent pattern of seasonality in the industry, and that seasonal trends account for the increase in imports subsequent to the filing of the petition from each of the respondents. Specifically, with respect to LG, we found that the percentage increase in shipments during the comparison period is not related to the filing of the petition but rather to the consistent seasonal trends in the industry because shipments during the April–October time period were consistently higher than those in the September–March time period, and the shipment increases observed in the April–October time period from year to

⁵ *See e.g., Certain Magnesite Carbon Bricks From the People's Republic of China: Notice of Preliminary Affirmative Determination of Critical Circumstances*, 75 FR 28237 (May 20, 2010), unchanged in *Certain Magnesite Carbon Bricks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances* 75 FR 45468 (Aug. 2, 2010).

⁶ *See e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Critical Circumstances Determination: Certain Orange Juice from Brazil*, 70 FR 49557 (Aug. 24, 2005), unchanged in *Notice of Final Determination of Sales at Less than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Orange Juice from Brazil*, 71 FR 2183 (Jan. 13, 2006) (*Certain Orange Juice from Brazil*).

⁷ *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Silicon Metal From the Russian Federation*, 67 FR 59253, 59256 (Sept. 20, 2001), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Metal From the Russian Federation*, 68 FR 6885 (Feb. 11, 2003).

year decreased. Therefore, for purposes of the final determination, we find that imports from LG during the period after the filing of the petition have not been massive in accordance with section 735(a)(3)(B) of the Act.

In summary, we find that there is a reasonable basis to believe or suspect importers had knowledge of dumping and the likelihood of material injury with respect to bottom mount refrigerators produced and exported from Korea by LG. However, we do not find that there have been massive imports of bottom mount refrigerators over a relatively short period from LG due to seasonality. Therefore, for the reasons stated above, the Department finds that critical circumstances do not exist for imports of the subject merchandise from Korea. For a complete discussion of our final critical circumstances analysis, see the Decision Memorandum at Comment 2 and the March 16, 2012, Memorandum to James P. Maeder, Jr., Director, Office 2, from The Team entitled, “Antidumping Duty Investigation of Certain Bottom Mount Refrigerator Freezers from Korea—Final Determination of Critical Circumstances.”

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Decision Memorandum, which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room 7046 of the main Department building.

In addition, a complete version of the Decision Memorandum can be accessed

directly on the Web at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculations. For a discussion of these changes, see the “Margin Calculations” section of the Decision Memorandum.

Verification

As provided in section 782(i) of the Act, we verified the sales and cost information submitted by the respondents for use in our final determination. We used standard verification procedures including an examination of relevant accounting and production records, and original source documents provided by the respondents.

Continuation of Suspension of Liquidation

Pursuant to 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from Korea, entered, or withdrawn from warehouse, for consumption on or after November 2, 2011, the date of publication of the preliminary determination in the **Federal Register**. CBP shall require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below, adjusted for export subsidies found in the final determination of the companion

countervailing duty investigation of this merchandise. Specifically, consistent with our practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require a cash deposit or posting of a bond equal to the amount by which the normal value exceeds the EP or CEP, as indicated below, less the amount of the countervailing duty determined to constitute an export subsidy.⁸

Accordingly, for cash deposit purposes, we are subtracting from the applicable cash deposit rate that portion of the rate attributable to the export subsidies found in the affirmative countervailing duty determination for each respondent with a final dumping margin above *de minimis* (i.e., 1.65 percent for Samsung and 1.60 percent for the companies covered by the “All Others” rate). After the adjustment for the cash deposit rates attributed to export subsidies, the resulting cash deposit rates will be 3.51 percent for Samsung and 8.69 percent for the companies covered by the “All Others” rate. For LG, although its final dumping margin is above *de minimis*, the Department found no export subsidies for this company and therefore we have not adjusted LG’s final cash deposit rate. For Daewoo, because its estimated weighted-average final dumping margin is zero, we are not directing CBP to suspend liquidation of entries of bottom mount refrigerators produced and exported by this company. These instructions suspending liquidation will remain in effect until further notice.

Final Determination Margins

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage	Critical circumstances
Daewoo Electronics Corporation	0.00	No.
LG Electronics, Inc	15.41	No.
Samsung Electronics Co., Ltd	5.16	No.
All Others	10.29	No.

“All Others” Rate

In accordance with section 735(c)(5)(A) of the Act, we have based the “All Others” rate on the simple average of the dumping margins calculated for the exporters/manufacturers investigated in this proceeding. The “All Others” rate is calculated exclusive of all *de minimis*

margins and margins based entirely on AFA. Because we cannot apply our normal methodology of calculating a weighted-average margin due to requests to protect business-proprietary information, we find this rate to be the best proxy of the actual weighted-average margin determined for the mandatory respondents.⁹

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

⁸ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 From India*, 69 FR 67306, 67307 (Nov. 17, 2004).

⁹ See *Ball Bearings and Parts Thereof From France, et al.: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-*

Circumstances Review, and Revocation of an Order in Part, 75 FR 53661, 53663 (Sept. 1, 2010).

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our final determination. As our final determination is affirmative, the ITC will determine within 45 days whether imports of the subject merchandise are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice will serve as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: March 16, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum**General Issues**

1. Targeted Dumping
2. Zeroing in Average-to-Transaction Comparisons
3. Adjustments to Expenses Paid to Affiliated Parties
4. Classification of Return Freight Expenses

Company-Specific Issues*Daewoo*

5. General and Administrative Expenses for Daewoo

LG

6. LG's Corrected Control Numbers
7. LG's Home Market Rebates
8. LG's Home Market Advertising Expenses
9. LG's Home Market Payment Dates
10. LG's U.S. Payment Dates
11. LG's U.S. Billing Adjustments

12. LG's U.S. Lump Sum and Sell-Out Rebates
13. LG's Non-Product-Specific Accruals for U.S. Rebates
14. LG's U.S. Freight Expenses
15. LG's U.S. Indirect Selling Expenses
16. LG's U.S. Inventory Carrying Costs
17. LG's Materials Purchased from Affiliated Parties
18. LG's Research and Development (R&D) Expenses

Samsung

19. Critical Circumstances
20. Use of Total Adverse Facts Available (AFA) for Samsung
21. Samsung's Early Payment Discounts in the Home Market
22. Samsung's Home Market Rebates on Discontinued Models and Kimchi Refrigerators
23. Samsung's Remaining Home Market Rebates
24. Samsung's Home Market Advertising Expenses
25. Samsung's Home Market Warranty Expenses
26. Corrections Presented at the Start of Samsung's Sales Verifications
27. Samsung's U.S. Rebates
28. Treatment of Payments for Defective Samsung Merchandise
29. The Denominator of Various Expense Calculations for Samsung
30. Samsung's U.S. Credit Periods
31. Samsung's U.S. Interest Rate
32. Samsung's U.S. Indirect Selling Expenses
33. Classification of Certain Costs as Packaging or Packing for Samsung
34. Corrections Presented at the Start of Samsung's Cost Verification
35. SEC's G&A Ratio
36. Samsung's Scrap Sales
37. Samsung's Financing Costs
38. Samsung's Materials Purchased from Affiliated Parties
39. Samsung's R&D Expenses

[FR Doc. 2012-7237 Filed 3-23-12; 8:45 am]

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DEPARTMENT OF COMMERCE**International Trade Administration**

[C-570-976]

Galvanized Steel Wire From the People's Republic of China: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of galvanized steel wire (galvanized wire) from the People's Republic of China (the PRC). For information on the estimated subsidy rates, see the "Suspension of Liquidation" section of this notice.

DATES: *Effective Date:* March 26, 2012.

FOR FURTHER INFORMATION CONTACT:

Nicholas Czajkowski or David Lindgren, AD/CVD Operations, Office 6, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202-482-1395 or 202-482-3870, respectively.

SUPPLEMENTARY INFORMATION:**Background**

The U.S. producers that filed the petition for this investigation are Davis Wire Corporation, Johnstown Wire Technologies, Inc., Mid-South Wire Company, Inc., National Standard, LLC, and Oklahoma Steel & Wire Company, Inc. (collectively, Petitioners). This investigation covers 40 programs. The mandatory respondents in this investigation are: (1) M&M Industries Co. Ltd. (M&M); (2) Shandong Hualing Hardware and Tool Co., Ltd. (Hualing); (3) Shanghai Bao Zhang Industry Co. Ltd. and its cross-owned affiliated companies Anhui Bao Zhang Metal Products Co., Ltd. and Shanghai Li Chao Industry Co., Ltd. (collectively, the Bao Zhang Companies); and, (4) Tianjin Huayuan Metal Wire Products Co., Ltd. and its cross-owned affiliated companies Tianjin Tianxin Metal Products Co., Ltd. and Tianjin Mei Jia Hua Trade Co., Ltd. (collectively, the Huayuan Companies).

Period of Investigation

The period of investigation for which we are measuring subsidies is January 1, 2010, through December 31, 2010.

Case History

The following events have occurred since the Department published the *Preliminary Determination*¹ on September 6, 2011.² The Huayuan Companies filed a ministerial error allegation on September 7, 2011, and, on September 12, 2011, Petitioners filed responses to the Huayuan Companies' allegation. On September 29, 2011, the Department released its analysis of the ministerial error allegation, finding that no ministerial errors were made in the *Preliminary Determination*. Petitioners, the Huayuan Companies and the

¹ See *Galvanized Steel Wire From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination*, 76 FR 55031 (September 6, 2011) (*Preliminary Determination*).

² Public versions of all business proprietary documents and all public documents are on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building.

Comment 11: Whether the Department Should Apply the Same Electricity Benchmark to both ABZ and SBZ

Comment 12: Application of AFA to the Huayuan Companies and M&M

VI. Recommendation

[FR Doc. 2012-7214 Filed 3-23-12; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-839]

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

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

SUMMARY: We determine that imports of bottom mount combination refrigerator-freezers (bottom mount refrigerators) from Mexico are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). In addition, we determine that critical circumstances exist with respect to the subject merchandise exported from Mexico by Samsung Electronics Mexico, S.A. de C.V. (Samsung).

Based on our analysis of the comments received, we made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margins for the investigated companies are listed below in the section entitled "Final Determination Margins."

DATES: *Effective Date:* March 26, 2012.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Katherine Johnson, 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 and (202) 482-4929, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 2, 2011, the Department published in the *Federal Register* the preliminary determination of sales at LTFV in the antidumping duty investigation of bottom mount refrigerators from Mexico.¹ Since the

preliminary determination, the following events have occurred.

In November 2011, we issued supplemental questionnaires to, and received responses from, all four respondents: Electrolux Home Products Corp. NV/Electrolux Home Products De Mexico, S.A. de C.V. (Electrolux), LG Electronics Monterrey Mexico, S.A. de C.V. (LGEMM), Controladora Mabe, S.A. de C.V./Mabe, S.A. de C.V. (Mabe), and Samsung. Also, in November 2011, we received updated shipment information for our critical circumstances analysis from Electrolux, LGEMM, and Samsung.

On December 5, 2011, Whirlpool Corporation (hereafter, the petitioner) amended its targeted dumping allegation with respect to Samsung to reflect the revised U.S. sales data submitted by Samsung in response to the Department's November 2011, supplemental questionnaire.

In November and December 2011, we verified the questionnaire responses of the four respondents in this case, in accordance with section 782(i) of the Act. In December, January and February 2012, we issued our verification findings for each respondent.²

Final Determination, and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers from Mexico, 76 FR 67688 (Nov. 2, 2011) (*Preliminary Determination*).

² See Memorandum to the File entitled "Verification of the Cost Response of Electrolux Home Products, Corp. N.V. and Electrolux Home Products, Inc. (collectively "Electrolux") in the Antidumping Investigation of Bottom Mount Combination Refrigerator-Freezers from Mexico," dated December 22, 2011; Memorandum to the File entitled "Verification of the Sales Response of Electrolux Home Products, Corp. N.V. and Electrolux Home Products, Inc. (collectively "Electrolux") in the Antidumping Duty Investigation of Bottom Mount Combination Refrigerator-Freezers (BMRFs) from Mexico," dated February 1, 2012; Memorandum to the File entitled "Verification of the Cost Response of LG Electronics, Inc. in the Antidumping Investigation of Bottom-Mount Combination Refrigerator-Freezers from the Republic of Korea, dated December 22, 2011; Memorandum to the File entitled "Verification of the Cost Response of LG Electronics Monterrey Mexico, S.A. de C.V. in the Antidumping Investigation of Bottom Mount Combination Refrigerator-Freezers from Mexico," dated December 22, 2011; Memorandum to the File entitled "Verification of the Third Country Sales Response of LG Electronics Monterrey Mexico, S.A. de C.V. and LG Electronics Canada," February 1, 2012; Memorandum to the File entitled "Verification of the U.S. Sales Response of LG Electronics Monterrey Mexico, S.A. de C.V. and LG Electronics USA, Inc.," dated February 2, 2012; Memorandum to the File entitled "Verification of the Sales Response of Samsung Electronics Co., Ltd in the Less-Than-Fair-Value Investigation of Bottom-Mount Refrigerator-Freezers from Korea," dated February 2, 2012; Memorandum to the File entitled "Verification of the Cost Response of Controladora Mabe S.A. de C.V. Mabe S.A. de C.V., and Leiser S. de R.L. in the Antidumping Investigation of Bottom-Mount Combination Refrigerator-Freezers from Mexico," dated January 4, 2012; Memorandum to the File entitled

In February 2012, the Department requested, and the respondents submitted, revised U.S. and/or comparison-market sales listings to reflect certain verification findings.

Also, in February 2012, the petitioner and the respondents (except for Electrolux) submitted case and rebuttal briefs. On February 22, 2012, the Government of Mexico submitted comments on certain aspects of the Department's preliminary determination. On February 24, 2012, the Department held a hearing in this case.

Subsequent to the *Preliminary Determination*, the Department revised the computer programs used to calculate the respondents' dumping margins to ensure that they accurately reflected the methodological choices made in that determination. These revisions to the programming, had they been included in the preliminary determination, would not have altered the weighted-average dumping margins calculated there. See March 16, 2012, Memoranda to The File entitled "Final Determination Margin Calculation for LG Electronics Monterrey Mexico, S.A. de C.V. (LGEMM)" (LGEMM Calculation Memo); "Final Determination Margin Calculation for Samsung Electronics Mexico S.A. de C.V. (SEM)" (Samsung Calculation Memo); "Final Determination Margin Calculation for Electrolux Home Products, Corp. N.V./Electrolux Home Products de Mexico, S.A. de C.V." (Electrolux Calculation Memo); and "Final Determination Margin Calculation for Controladora Mabe S.A. de C.V., Mabe S.A. de C.V., and Leiser S. de R.L. (collectively, Mabe)," which contain the revised preliminary antidumping duty margin program log and output for each respondent.

Period of Investigation

The period of investigation (POI) is January 1, 2010, through December 31, 2010.

"Verification of the Sales Responses of General Electric Company," dated January 13, 2012; Memorandum to the File entitled "Verification of the Sales Responses of Controladora Mabe S.A. de C.V. and Mabe S.A. de C.V. (collectively, "Mabe")," dated January 25, 2012; Memorandum to the File entitled "Verification of the Cost Response of Samsung Electronics Mexico S.A. de C.V. in the Less-Than-Fair-Value Investigation of Bottom Mount Combination Refrigerator-Freezers from Mexico", dated December 21, 2011; Memorandum to the File entitled "Verification of the U.S. Sales Response of Samsung Electronics Mexico, S.A. de C.V.," dated January 9, 2012; and Memorandum to the File entitled "Verification of Samsung Electronics America Inc.," dated January 26, 2012.

¹ See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of*

Scope of Investigation

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

- The cabinet contains at least two interior storage compartments accessible through one or more separate external doors or drawers or a combination thereof;
- An upper-most interior storage compartment(s) that is accessible through an external door or drawer is either a refrigerator compartment or convertible compartment, but is not a freezer compartment;³ and
- There is at least one freezer or convertible compartment that is mounted below an upper-most interior storage compartment(s).

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

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

The products subject to the investigation are currently classifiable under subheadings 8418.10.0010, 8418.10.0020, 8418.10.0030, and 8418.10.0040 of the Harmonized Tariff System of the United States (HTSUS). Products subject to this investigation

may also enter under HTSUS subheadings 8418.21.0010, 8418.21.0020, 8418.21.0030, 8418.21.0090, and 8418.99.4000, 8418.99.8050, and 8418.99.8060.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.

Scope Comments

In the *Preliminary Determination*, we did not modify the description of the scope of this investigation in the manner requested by certain interested parties. Specifically, we did not modify the scope to be consistent with the Association of Home Appliance Manufacturers (AHAM) definition, nor did we exclude kimchi refrigerators or Quatro Cooling Refrigerators from the scope. We did, however, clarify the scope to eliminate any ambiguity with respect to the inclusion of Quatro Cooling Refrigerators in the scope of the investigation. See *Preliminary Determination*, 76 FR at 67690–67691. No party commented on our preliminary scope determination. Therefore, we made no further changes to the description of the scope, as stated in the *Preliminary Determination*.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum (Decision Memorandum), which is adopted by this notice. A list of the issues raised is attached to this notice as Appendix I. The Decision Memorandum is a public document and is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/ia/>. The signed Decision Memorandum and the electronic version of the Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Act, we verified the sales and cost information submitted by the respondents for use in our final determination. We used standard verification procedures including an examination of relevant accounting and production records, and original source

documents provided by the respondents.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for each respondent. For a discussion of these changes, see the “Margin Calculations” section of the Decision Memorandum.

Cost of Production

As discussed in the *Preliminary Determination*, we conducted an investigation to determine whether the respondents made comparison-market sales of the foreign like product during the POI at prices below their cost of production (COP) within the meaning of section 773(b) of the Act. See *Preliminary Determination*, 76 FR at 67698–67699. For this final determination, we performed the cost test following the same methodology as in the *Preliminary Determination*, after making certain adjustments to the reported comparison-market cost and sales data based on our analysis of the comments received and our findings at verification, where appropriate.

We found that 20 percent or more of each respondent’s sales of a given product during the POI were at prices less than the weighted-average COP for this period. Thus, we determined that these below-cost sales were made in “substantial quantities” within an extended period of time and at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. See sections 773(b)(1)–(2) of the Act.

Therefore, for purposes of this final determination, we found that each respondent made below-cost sales not in the ordinary course of trade. Consequently, we disregarded these sales and used the remaining sales as the basis for determining normal value for each respondent pursuant to section 773(b)(1) of the Act.

MNC Provision

As we discussed in the *Preliminary Determination*, we applied the Special Rule for Certain Multinational Corporations (MNC Provision) in the calculation of normal value (NV) for LGEMM because, based on the record evidence, LGEMM satisfied each of the three criteria enumerated under section 773(d) of the Act. In so doing, we based NV for LGEMM on the prices of sales made by LG Electronics, Inc. (LGE) in Korea. See *Preliminary Determination*, 76 FR at 67692–67693.

³ The existence of an interior sub-compartment for ice-making in an upper-most storage compartment does not render an upper-most storage compartment a freezer compartment.

We have continued to apply the MNC Provision to the calculation of LGEMM's NV for purposes of the final determination because all three criteria enumerated in the Act have been met. Specifically, we verified that LGEMM is owned in part by LGE, which produces bottom mount refrigerators, and that LGEMM's home market sales are not viable for comparison to its U.S. sales. Furthermore, using the same methodology as that employed in the *Preliminary Determination*, after taking into account adjustments made to LGEMM's and LGE's sales and cost data based on our analysis of other comments received and our findings at verification, we continue to find that the NV of the foreign like product produced in Korea is higher than the NV of the foreign like product produced in Mexico. Therefore, we compared LGEMM's U.S. prices to the prices of sales made by LGE in Korea. For further discussion of this issue, see *Comment 3* of the Decision Memorandum.

Targeted Dumping

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

In the *Preliminary Determination*, we conducted time-period targeted dumping analyses for Electrolux, LGEMM, and Samsung based on timely allegations of targeted dumping filed by the petitioner, using the methodology adopted in *Certain Steel Nails From the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value*, 73 FR 33985 (June 16, 2008), and *Certain Steel Nails From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 33977 (June 16, 2008) (*Nails*), and applied in more recent investigations.⁴ As a result, we preliminarily determined that there was

⁴ These investigations include *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia: Final Determination of Sales at Less Than Fair Value*, 75 FR 59223 (Sept. 27, 2010) and accompanying Issues and Decision Memorandum at Comment 1, and *Multilayered Wood Flooring From the Peoples' Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (Oct. 18, 2011) and accompanying Issues and Decision Memorandum at Comment 4.

a pattern of U.S. prices for comparable merchandise that differed significantly among certain time periods for Samsung and LGEMM, in accordance with section 777A(d)(1)(B)(i) of the Act. We also preliminarily determined that no such pattern existed for Electrolux.

Furthermore, for Samsung, we found that the standard average-to-average methodology took into account the price differences because the alternative average-to-transaction methodology yielded no difference in the margin or yielded a difference in the margin that was so insignificant relative to the size of the resulting margin as to be immaterial. Accordingly, we preliminarily applied the standard average-to-average methodology to all U.S. sales made by Samsung. For LGEMM, we found that that the standard average-to-average methodology did not take into account the price differences because the alternative average-to-transaction methodology yielded a material difference in the margin. Accordingly, we preliminarily applied the average-to-transaction methodology to all U.S. sales made by LGEMM. For Electrolux, because we did not find a pattern of prices that differed significantly for certain time periods, we applied our standard average-to-average price comparison methodology to all U.S. sales made by Electrolux. See *Preliminary Determination* at 76 FR 67691–67692.

For purposes of the final determination, we performed our targeted-dumping analysis following the methodology employed in the *Preliminary Determination*, after taking into account the petitioner's revised targeted dumping allegation with respect to Samsung, and making certain revisions to Electrolux's, LGEMM's and Samsung's reported U.S. sales data based on verification findings and our evaluation of other comments submitted by the parties, as enumerated in the "Margin Calculations" section of the Decision Memo. In so doing, we found that the results of our final targeted-dumping analysis were consistent with those of our preliminary targeted-dumping analysis with respect to Electrolux. Therefore, we continued to apply the standard average-to-average methodology to all of Electrolux's U.S. sales. For Samsung and LGEMM, while we found a pattern of price differences that differed significantly for certain time periods pursuant to section 777A(d)(1)(B) of the Act, we determined that the differences can be taken into account using the average-to-average methodology. Therefore, we applied the standard average-to-average

methodology to all U.S. sales made by Samsung and LGEMM. See LGEMM Calculation Memo, Samsung Calculation Memo, and Electrolux Calculation Memo. For further discussion, see *Comment 2* of the Decision Memorandum.

Critical Circumstances

In the *Preliminary Determination*, we found that critical circumstances exist with respect to imports of the subject merchandise from Samsung but not with respect to imports of subject merchandise from Electrolux or LGEMM.⁵ See *Preliminary Determination*, 76 FR at 67701–67702. Samsung objected to our preliminary affirmative critical circumstances determination with respect to it, arguing among other things, that its imports have not been massive since the filing of the petition.

In conducting our critical circumstances analysis for the final determination, we relied on updated shipment data provided by Electrolux, LGEMM, and Samsung which we examined at verification. Based on our analysis of these data and the criteria enumerated under section 735(a)(3) of the Act, we continue to find that critical circumstances exist only with respect to imports of bottom mount refrigerators from Samsung, as explained below.

Section 735(a)(3) of the Act provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that an increase in imports of 15 percent during the "relatively short period" of time may be considered "massive."

⁵ The petitioner did not make a critical circumstances allegation with respect to imports from Mabe or All Others.

Section 351.206(i) of the Department's regulations defines "relatively short period" as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later. The regulations also provide, however, that if the Department finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.

In determining whether the above criteria have been satisfied, we examined: (1) The evidence placed on the record by the respondents and the petitioner; and (2) the International Trade Commission's (ITC's) preliminary determination of injury (*see Bottom Mount Refrigerator Freezers from Mexico and Korea, Investigation Nos. 701-TA-477 and 731-TA-1180-1181 (Preliminary)*, 76 FR 29791 (May 23, 2011) (*ITC Preliminary Determination*)).

To determine whether there is a history of injurious dumping of the merchandise under investigation, in accordance with section 735(a)(3)(A)(i) of the Act, the Department normally considers evidence of an existing antidumping duty order on the subject merchandise in the United States or elsewhere to be sufficient.⁶ As mentioned in the *Preliminary Determination*, the petitioner did not identify any proceeding with respect to bottom mount refrigerators from Mexico, nor are we aware of any existing antidumping duty order in any country on bottom mount refrigerators from Mexico. For this reason, the Department does not find a history of injurious dumping of the subject merchandise from Mexico pursuant to section 735(a)(3)(A)(i) of the Act.

To determine whether the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at LTFV, and that there was likely to be material injury by reason of such sales in accordance with section 735(a)(3)(A)(ii) of the Act, the Department normally considers margins of 25 percent or more for export price (EP) sales or 15 percent or more for constructed export price (CEP)

transactions sufficient to impute knowledge of dumping.⁷

Electrolux made only CEP sales and the vast majority of LGEMM's sales are CEP. Samsung had both EP and CEP sales, a majority of which are CEP sales. The final dumping margins calculated for Electrolux, LGEMM, and Samsung exceed the threshold sufficient to impute knowledge of dumping (*i.e.*, 15 percent for CEP sales). Therefore, we determine that there is sufficient basis to find that importers should have known that each of these companies was selling the subject merchandise at LTFV pursuant to section 735(a)(3)(A)(ii) of the Act. In determining whether an importer knew or should have known that there was likely to be material injury by reason of dumped imports, the Department normally will look to the preliminary injury determination of the ITC. If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that material injury is likely by reason of such imports. *See e.g., Certain Orange Juice from Brazil*. In the present case, the ITC preliminarily found reasonable indication that an industry in the United States is materially injured by imports of bottom mount refrigerators from Mexico. *See ITC Preliminary Determination*. Based on the ITC's preliminary determination of injury, and the final antidumping margins for Electrolux, LGEMM, and Samsung, the Department finds that there is a reasonable basis to conclude that the importer knew or should have known that there was likely to be injurious dumping of subject merchandise for these companies.

In determining whether there are "massive imports" over a "relatively short period," pursuant to section 735(a)(3)(B) of the Act, the Department normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the base period) to a comparable period of at least three months following the filing of the petition (*i.e.*, the comparison period). Accordingly, in determining whether imports of the subject

merchandise have been massive, we based our analysis for each of the three companies on shipment data for comparable seven-month periods preceding and following the filing of the petition.

Specifically, the Department requested and obtained from each of the respondents monthly shipment data from January 2008 to October 2011. To determine whether imports of subject merchandise have been massive over a relatively short period, we compared, pursuant to 19 CFR 351.206(h)(1)(i), the respondents' export volumes for the seven months before the filing of the petition (*i.e.*, September 2010–March 2011) to those during the seven months after the filing of the petition (*i.e.*, April through October 2011). These periods were selected based on the Department's practice of using the longest period for which information is available up to the date of the preliminary determination.⁸ According to the monthly shipment information, we found the volume of shipments of bottom mount refrigerators increased by more than 15 percent for Electrolux, LGEMM, and Samsung.

For purposes of our "massive imports" determination, we also considered the impact of seasonality on imports of bottom mount refrigerators based on interested party comments and information contained in the ITC's preliminary determination. In order to determine whether the seasonality factor accounted for the increase in imports observed for each of the respondents in the post-petition filing period (the comparison period), we analyzed company-specific shipment data for a historical three-year period, where possible, using the same base and comparison time periods noted above. As a result of this analysis, we found that there is a consistent pattern of seasonality in the industry, and that seasonal trends account for the increase in imports subsequent to the filing of the petition from each of the respondents except one. Specifically, with respect to Electrolux and LGEMM, we found that the percentage increase in shipments during the comparison period is not related to the filing of the petition but rather to the consistent seasonal trends in the industry because shipments during the April–October time period were consistently higher than those in the September–March

⁷ *See e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Critical Circumstances Determination: Certain Orange Juice from Brazil*, 70 FR 49557 (August 24, 2005), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Orange Juice from Brazil*, 71 FR 2183 (January 13, 2006) (*Certain Orange Juice from Brazil*).

⁶ *See e.g., Certain Magnesia Carbon Bricks From the People's Republic of China: Notice of Preliminary Affirmative Determination of Critical Circumstances*, 75 FR 28237 (May 20, 2010), unchanged in *Certain Magnesia Carbon Bricks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances* 75 FR 45468 (August 2, 2010).

⁸ *See e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Silicon Metal From the Russian Federation*, 67 FR 59253, 59256 (Sept. 20, 2002), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Metal From the Russian Federation*, 68 FR 6885 (February 11, 2003).

time period from year to year, and the shipment increases observed in the April–October time period from year to year decreased. Therefore, for purposes of the final determination, we find that imports from these companies during the period after the filing of the petition have not been massive in accordance with section 735(a)(3)(B) of the Act. However, with respect to Samsung, we found that the percentage increase in shipments during the comparison period is not related to seasonal trends but associated with the filing of the petition because shipments in the April–October 2010 time period were lower than those in the September 2009–March 2010 time period, and the shipment increase observed in the April–October period between 2010 and 2011 was substantial. Accordingly, for purposes of the final determination, we find that imports from Samsung during the period after the filing of the petition have been massive in accordance with section 735(a)(3)(B) of the Act.

In summary, we find that there is a reasonable basis to believe or suspect importers had knowledge of dumping and the likelihood of material injury with respect to bottom mount refrigerators produced and exported from Mexico by Electrolux, LGEMM,

and Samsung. In addition, we find that there have been massive imports of bottom mount refrigerators over a relatively short period from Samsung, irrespective of seasonality. However, we do not find that there have been massive imports of bottom mount refrigerators over a relatively short period from Electrolux and LGEMM due to seasonality. Therefore, for the reasons stated above, the Department finds that critical circumstances do not exist for imports of the subject merchandise from Electrolux and LGEMM, but continues to find that critical circumstances exist for imports of the subject merchandise from Samsung in the final determination. For a complete discussion of our final critical circumstances analysis, see the Decision Memorandum at Comment 34 and the March 16, 2012, Memorandum to James P. Maeder, Jr., Director, Office 2, from The Team entitled, “Antidumping Duty Investigation of Certain Bottom Mount Refrigerator Freezers from Mexico—Final Determination of Critical Circumstances.”

Continuation of Suspension of Liquidation

Pursuant to 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border

Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from Mexico, produced/exported by Electrolux, LGEMM, Mabe, and “All Others” and entered, or withdrawn from warehouse, for consumption on or after November 2, 2011, the date of publication of the preliminary determination in the **Federal Register**. Pursuant to 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from Mexico, produced/exported by Samsung and entered, or withdrawn from warehouse, for consumption on or after August 4, 2011, which is 90 days prior to the date of publication of the preliminary determination in the **Federal Register**, *i.e.*, November 2, 2011. CBP shall require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice.

Final Determination Margins

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-Average margin percentage	Critical circumstances
Electrolux Home Products, Corp. NV/Electrolux Home Products De Mexico, S.A. de C.V.	22.94	No.
LG Electronics Monterrey Mexico, S.A. de C.V.	30.34	No.
Controladora Mabe S.A. de C.V./Mabe S.A. de C.V.	6.00	NA.
Samsung Electronics Mexico, S.A. de C.V.	15.95	Yes.
All Others	20.26	NA.

“All Others” Rate

In accordance with section 735(c)(5)(A) of the Act, we based the “All Others” rate on the weighted average of the dumping margins calculated for the exporters/manufacturers investigated in this proceeding. The “All Others” rate is calculated exclusive of all *de minimis* margins and margins based entirely on AFA.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

ITC Notification

In accordance with section 735(d) of the Act, we notified the ITC of our final determination. As our final

determination is affirmative, the ITC will determine within 45 days whether imports of the subject merchandise are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice will serve as the only reminder to parties subject to administrative protective order (APO) of

their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: March 16, 2012.

Paul Piquado,
Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

General Issues

1. Targeted Dumping

2. Zeroing in Average-to-Transaction Comparisons

Company-Specific Issues

LGEMM

3. Application of MNC Provision
4. Lump Sum and Sell-Out Rebates on U.S. Sales
5. Non-Product-Specific Accrual Rebates on U.S. Sales
6. Warehouse-to-Customer U.S. Inland Freight Expenses
7. Billing Adjustments on U.S. Sales
8. Interest Rate for U.S. Inventory Carrying Costs
9. Payment Dates on Certain U.S. Sales
10. Payment Dates on Certain Canadian Sales
11. Lump Sum and Sell-Out Rebates on Canadian Sales
12. Direct Advertising Expense Ratio for Canadian Sales
13. Conversion Cost Allocation Error
14. Research and Development Costs
15. Global Costs
16. Affiliated Party Input Purchases

Samsung

17. Corrections Presented at Start of Sales Verifications
18. U.S. Rebates
19. CEP Offset
20. The Denominator for Certain Selling Expense Ratios
21. U.S. Indirect Selling Expenses
22. Classification of Certain Costs as Packaging or Packing
23. Treatment of Payments for Defective Merchandise
24. Unreported Bank Charges
25. Comparison Market Viability
26. Calculation of CV Selling Expenses and Profit
27. Research and Development Costs
28. Certain Affiliated Party Purchases
29. Affiliated Party Compressors Purchases
30. Erroneously Reported Input Quantities
31. General and Administrative Expense Ratio
32. Interest Expense Offset
33. Understatement of Input Freight Costs
34. Critical Circumstances

Mabe

35. Costs Excluded From Cost of Production
36. Fees Related to Agreements Between Mabe and GEA
37. U.S. Indirect Selling Expenses
38. U.S. Rebates
39. U.S. Advertising Expenses
40. Cost Verification Corrections
41. Home Market Rebate Identified at Verification

Electrolux

42. Verification Findings

[FR Doc. 2012-7271 Filed 3-23-12; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-840]

Notice of Final Determination of Sales at Less Than Fair Value: Galvanized Steel Wire From Mexico

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

DATES: *Effective Date:* March 26, 2012.

SUMMARY: On November 4, 2011, the Department of Commerce (the Department) published its preliminary determination in the investigation of sales at less than fair value of galvanized steel wire (galvanized wire) from Mexico.¹

The Department has determined that galvanized wire from Mexico is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final margins of sales at less than fair value are listed below in the section entitled "Final Determination of Investigation."

FOR FURTHER INFORMATION CONTACT: Patrick Edwards or Ericka Ukrow, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-8029 or (202) 482-0405, respectively.

SUPPLEMENTARY INFORMATION:

Background

The preliminary determination in this investigation was published on November 4, 2011. *See Preliminary Determination.* We invited parties to comment on the *Preliminary Determination*. On November 8, 2011, we received timely-filed allegations from Deacero S.A. de C.V. (Deacero) that the Department made several ministerial errors in calculating its dumping margin for the preliminary determination.²

On November 10 and 23, 2011, the Department issued Deacero supplemental questionnaires.

On December 5, 2011, the Department released its memorandum addressing Deacero's ministerial error allegations, finding that no amendment to the preliminary determination was

¹ *See Galvanized Steel Wire from Mexico: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 76 FR 68422 (November 4, 2011) (*Preliminary Determination*).

² *See* Letter from Deacero, regarding "Galvanized Steel Wire from Mexico," dated November 8, 2011. Petitioners did not comment on Deacero's ministerial error allegations.

warranted. *See* Ministerial Error Memorandum.³

On December 5, 2011, Deacero submitted its response to the November 23, 2011, questionnaire.⁴ Also on December 5, 2011, Petitioners⁵ and respondent Aceros Camesa S.A. de C.V. (Camesa) timely filed a request for a public hearing.⁶

We conducted cost and sales verifications of the responses submitted by Deacero and Camesa (collectively, respondents).⁷ All verification reports

³ *See* Memorandum to Richard O. Weible, Director, Office 7, from Patrick Edwards and Ericka Ukrow, Case Analysts, through Angelica Mendoza, Program Manager, Office 7, entitled "Ministerial Error Allegation in the Preliminary Determination of the Antidumping Duty Investigation of Galvanized Steel Wire from Mexico: Deacero S.A. de C.V.," dated December 5, 2011 (Ministerial Error Memorandum).

⁴ *See* Deacero's Fourth Supplemental Questionnaire Response, dated December 8, 2011.

⁵ The Petitioners in this investigation are Davis Wire Corporation, Johnston Wire Technologies, Inc., Mid-South Wire Company, Inc., National Standard, LLC, and Oklahoma Steel & Wire Company, Inc. (collectively, Petitioners).

⁶ Deacero, also on December 5, 2011, requested to participate in a hearing in the event that another party requested a hearing.

⁷ *See* Memorandum to the File from Christopher J. Zimpo and Frederick W. Mines, Case Accountants, through Theresa C. Deeley, Lead Accountant, and Neal M. Halper, Director, Office of Accounting, entitled "Verification of the Cost of Production and Constructed Value Data Submitted by Deacero S.A. de C.V. in the Antidumping Duty Investigation of Galvanized Steel Wire from Mexico," dated January 13, 2012 (Deacero Cost Verification Report); Memorandum to the File from Frederick W. Mines and Christopher J. Zimpo, Case Accountants, through Theresa C. Deeley, Lead Accountant, and Neal M. Halper, Director, Office of Accounting, entitled "Verification of the Cost Response of Aceros Camesa S.A. de C.V. in the Antidumping Duty Investigation of Galvanized Steel Wire from Mexico," dated January 13, 2012 (Camesa Cost Verification Report); Memorandum to the File from Christopher J. Zimpo and Frederick W. Mines, Case Accountants, through Theresa C. Deeley, Lead Accountant, and Neal M. Halper, Director, Office of Accounting, entitled "Verification of the Further Manufacturing Data Submitted by Deacero S.A. de C.V. for Deacero USA Inc. and Stay-Tuff Fence Manufacturing, Inc. in the Antidumping Duty Investigation of Galvanized Steel Wire from Mexico," dated January 27, 2012 (Deacero Further-Manufacturing Verification Report); Memorandum to the File from Patrick Edwards, Case Analyst, through Angelica Mendoza, Program Manager, Office 7, entitled "Verification of the Sales Responses of Aceros Camesa, S.A. de C.V. in the Antidumping Duty Investigation on Galvanized Steel Wire from Mexico," dated February 13, 2012 (Camesa Verification Report); Memorandum to the File from Ericka Ukrow and Patrick Edwards, Case Analysts, through Angelica L. Mendoza, Program Manager, Office 7, entitled "Verification of the Sales Response of Deacero USA Inc. (Deacero USA) and Stay-Tuff Fence Manufacturing, Inc. (Stay-Tuff) in the Antidumping Duty Investigation of Galvanized Steel Wire from Mexico," dated February 15, 2012 (Deacero CEP Verification Report); Memorandum to the File from Patrick Edwards and Ericka Ukrow, Case Analysts, through Angelica Mendoza, Program Manager, Office 7, entitled "Verification of the Sales Responses of Deacero S.A. de C.V. in the

because it requires additional time to evaluate the surrogate value submissions and arguments made by the interested parties following the *Preliminary Results*. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for completing the final results of the administrative review from 120 days to 180 days. The final results are now due no later than June 4, 2012.

This notice is published in accordance with sections 751(a) and 777(i) of the Act.

Dated: March 20, 2012.

Gary Taverman,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012-7218 Filed 3-23-12; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-821-801]

Solid Urea From the Russian Federation: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

DATES: *Effective Date:* March 26, 2012.

FOR FURTHER INFORMATION CONTACT:

Dustin Ross or Minoo Hatten, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-0747 or (202) 482-1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

At the request of interested parties, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on solid urea from the Russian Federation for the period July 1, 2010, through June 30, 2011. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 76 FR 53404 (August 26, 2011).

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to complete the preliminary results within 245 days

after the last day of the anniversary month of an order for which a review is requested. If it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary results to a maximum of 365 days after the last day of the anniversary month.

We determine that it is not practicable to complete the preliminary results of this review by the current deadline of April 1, 2012, because we require additional time to analyze a detailed response to a supplemental questionnaire that was submitted on March 7, 2012. In addition, the numerous extensions we have granted for filing various responses has contributed to us requiring additional time to complete the preliminary results.

Therefore, we are extending the time period for issuing the preliminary results of this review by 75 days, until June 15, 2012.

This notice is published in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

Dated: March 20, 2012.

Gary Taverman,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012-7236 Filed 3-23-12; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-580-866]

Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of bottom mount combination refrigerator-freezers (bottom mount refrigerators) from the Republic of Korea (Korea). For information on the estimated subsidy rates, see the "Suspension of Liquidation" section of this notice.

DATES: *Effective Date:* March 26, 2012.

FOR FURTHER INFORMATION CONTACT:

Myrna L. Lobo, Justin M. Neuman, or Milton Koch, 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) 482-2371, (202) 482-0486, and (202) 482-2584, respectively.

SUPPLEMENTARY INFORMATION:

Background

The U.S. producer that filed the petition for this investigation is Whirlpool Corporation (hereafter, Whirlpool, or "petitioner"). This investigation covers 41 programs. The mandatory respondents in this investigation are: (1) Samsung Electronics Co., Ltd. (SEC), and its cross-owned affiliates Samsung Gwangju Electronics Co., Ltd. (SGEC) and Samsung Electronics Logitech (SEL); (2) LG Electronics (LGE) and its cross-owned affiliate, ServeOne Co., Ltd., and (3) Daewoo Electronics Corporation (DWE).

Period of Investigation

The period of investigation for which we are measuring subsidies is January 1, 2010, through December 31, 2010.

Case History

The following events have occurred since the Department published the *Preliminary Determination*.¹ From September through December 2011, the Department issued numerous supplemental questionnaires to all parties concerning the New Subsidies Allegations (NSA), cross ownership, and other program issues. All parties timely responded to the Department's supplemental questionnaires.

In September and October 2011, the petitioner filed comments on the supplemental responses of LGE and SEC, on the NSA questionnaire responses, and on cross-ownership of respondents. On October 17, 2011, the Government of Korea (GOK) submitted to the record the public version of a verification report from a prior investigation. Also in October, SEC filed pre-verification corrections. On October 27, 2011, the Department placed independent research on the record. On October 31, 2011, the Department placed on the record the Preliminary Scope Memorandum,² prepared in the companion antidumping duty (AD) investigation.

¹ See *Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea: Preliminary Negative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination*, 76 FR 55044 (September 6, 2011) (*Preliminary Determination*).

² See Memorandum from the Team to Gary Taverman, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Re: Scope Modification Requests, dated October 26, 2011 (*Preliminary Scope Memorandum*).

In November 2011, the petitioner filed new information and comments on the NSA supplemental responses of the GOK and DWE, and on suppliers and verification issues for LGE and SEC. On November 28, 2011, the petitioner met with the Department and filed pre-verification comments.³ On that date, the Department also issued verification outlines to the GOK, LGE, SEC, and DWE.

The Department conducted verification from December 5, 2011, through December 16, 2011. On December 21, 2011, the Department issued its Post-Preliminary Analysis of Cross-ownership and its Post-Preliminary Analysis of New Subsidy Allegations. On that date, the Department also issued its Post-Preliminary Analysis Regarding the Restructuring of Daewoo Electronics Corporation.

On February 2, 2012, the Department issued verification reports for LGE and SEC. On February 3, 2012, the Department issued verification reports for the GOK and DWE. Also on February 3, 2012, the Department met with counsel for SEC.⁴ On February 14, 2012, the GOK, LGE, SEC, and DWE filed case briefs. On February 21, 2012, the Department issued its Post-Preliminary Analysis: GOK Preferential Lending Under the Daewoo Workout, and the GOK, LGE, SEC, and the petitioner filed rebuttal briefs. On February 24, 2012, the GOK and DWE filed case briefs on GOK Preferential Lending Under the Daewoo Workout. On February 27, 2012, the petitioner filed a rebuttal brief on GOK Preferential Lending Under the Daewoo Workout. On February 28, 2012, the Department held a public hearing, based on the timely requests of the petitioner, SEC, LGE, and DWE, filed in September and October 2011. On March 5, 2012, the Department met with the GOK and counsel for DWE.⁵

Scope Comments

In the *Preliminary Determination*, the Department stated that it was evaluating comments filed by the parties regarding the scope in the companion AD investigation. In *AD Preliminary*

Determination,⁶ we did not modify the description of the scope of the investigations in the manner requested by certain interested parties. Specifically, we did not modify the scope to be consistent with the Association of Home Appliance Manufacturers definition, nor did we exclude kimchi refrigerators or Quatro Cooling Refrigerators from the scope. We did, however, clarify the scope to eliminate any ambiguity with respect to the inclusion of Quatro Cooling Refrigerators in the scope of the investigation. *See AD Preliminary Determination*, 76 FR at 67690–67691; *see also Preliminary Scope Memorandum*. No party commented on our preliminary scope determination. Therefore, we have made no further changes to the description of the scope of the investigation.

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;
- An upper-most interior storage compartment(s) that is accessible through an external door or drawer is either a refrigerator compartment or convertible compartment, but is not a freezer compartment;⁷ and
- There is at least one freezer or convertible compartment that is mounted below an upper-most interior storage compartment(s).

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

either a refrigerator compartment or a freezer compartment, as defined above.

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

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

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in Memorandum to Paul Piquado, Assistant Secretary for Import Administration, Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea (Decision Memorandum), which is hereby adopted by this notice. A list of the subsidy programs and the issues that parties raised and to which we responded in the Decision Memorandum is attached to this notice as an Appendix. The Decision Memorandum is a public document, which is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available in the Central Records Unit (CRU), room 7046 of the main Department of Commerce

³ See Memorandum to the File from Justin Neuman, Meeting with Whirlpool Corporation Regarding the Countervailing Duty Investigation of Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea, dated November 28, 2011.

⁴ See Memorandum to the File from Gary Taverman, Ex Parte Meeting with Counsel for Samsung Electronics, Ltd., dated February 7, 2012.

⁵ See Memorandum to the File, Ex Parte Meeting with Counsel for Daewoo Electronics Corporation Regarding the Countervailing Duty Investigation of Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea, dated March 7, 2012.

⁶ Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Negative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea, 76 FR 67675 (November 2, 2011) (*AD Preliminary Determination*).

⁷ The existence of an interior sub-compartment for ice-making in an upper-most storage compartment does not render an upper-most storage compartment a freezer compartment.

building. In addition, a complete version of the Decision Memorandum is also accessible on the Web at <http://ia.ita.doc.gov/frn/>. The signed Decision Memorandum and the electronic versions of the Decision Memorandum are identical in content.

Use of Facts Otherwise Available, Including Adverse Inferences

For purposes of this final determination, we relied, in part, on adverse facts available (AFA), as provided for in sections 776(a) and (b) of the Tariff Act of 1930, as amended (Act), to determine the countervailable subsidy rate for one program under investigation. A full discussion of our decision to apply AFA is presented in the Decision Memorandum in the section “Application of Facts Available, Including the Application of Adverse Inferences.”

Injury Test

Because Korea is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine pursuant to section 701(a)(2) of the Act whether imports of the subject merchandise from Korea materially injure, or threaten material injury to, a U.S. industry. On May 23, 2011, the ITC published its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports from Korea of subject merchandise.⁸

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated an individual countervailable subsidy rate for each respondent. Section 705(c)(5)(A)(i) of the Act states that for companies not individually

investigated, we will determine an “all others” rate equal to the weighted average of the countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates based entirely on AFA under section 776 of the Act.

Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the “all others” rate by weight averaging the rates of DWE and SEC, because doing so risks disclosure of proprietary information. Therefore, we have calculated an average rate using other information on the record.⁹ Since both DWE and SEC received countervailable export subsidies and the “all others” rate is an average based on the individually investigated exporters and producers, the “all others” rate includes export subsidies.¹⁰

Company	<i>Ad valorem</i> net subsidy rate (percent)
Daewoo Electronics Corporation	12.90
LG Electronics Inc	0.30
Samsung Electronics Co., Ltd./Samsung Gwangju Electronics Co., Ltd	2.46
All Others	2.79

Because the *Preliminary Determination* was negative, we did not instruct U.S. Customs and Border Protection (CBP) to suspend entries of subject merchandise. In accordance with sections 705(c)(1)(B)(ii) and (C) of the Act, as applicable, we are directing CBP to suspend liquidation of and to require the posting of a cash deposit or bond on all imports of the subject merchandise from Korea, other than those produced and exported by LGE because LGE’s rate is *de minimis*, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

If the ITC issues a final affirmative injury determination, we will issue a CVD order. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as

a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration. In accordance with section 705(b)(3) of the Act, because our preliminary determination was negative and our final determination is affirmative, the ITC will make its final determination within 75 days after the Department makes its final determination.

Return or Destruction of Proprietary Information

In the event that the ITC issues a negative final injury determination, this notice will serve as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/ destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

⁸ See *Bottom Mount Combination Refrigerator-Freezers From Korea and Mexico*, 76 FR 29791 (May 23, 2011); and USITC Publication 4232 entitled *Bottom Mount Combination Refrigerator-Freezers From Korea and Mexico: Investigation Nos. 701-TA-477 and 731-TA-1180-1181 (Preliminary)* (May 2011).

⁹ See Memorandum to the File, “Calculation of the All Other Rate in the Countervailing Duty Investigation of Bottom Mount Combination Refrigerator-Freezers from the Republic Of Korea,” dated concurrently with this notice.

¹⁰ See, e.g., *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 75 FR 57444 (September 21, 2010).

Dated: March 16, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix

I. Summary

II. Subsidy Valuation Information

- A. Period of Investigation
- B. Cross-Ownership and Attribution of Subsidies
- C. Allocation Period
- D. Discount Rates and Interest Rate Benchmarks For Loans
- E. Equityworthiness of DWJ and DWE

III. Application of Facts Available, Including the Application of Adverse Inferences

IV. Analysis of Programs

A. Programs Determined To Be Countervailable

1. Restructuring of Daewoo Electronics Corporation
 - a. GOK Equity Infusions under the Daewoo Workout
 - b. GOK Preferential Lending under the Daewoo Workout
2. KDB and IBK Short-Term Discounted Loans for Export Receivables
3. K-SURE Short-term Export Insurance
4. Tax Programs
 - a. Tax Reduction for Research and Manpower Development: RSTA 10(1)(3)
 - b. RSTA Article 25(2) Tax Deductions for Investments in Energy Economizing Facilities
 - c. RSTA Article 26 Tax Deduction for Facilities Investment
 - d. Gwangju Metropolitan City Production Facilities Subsidies: Tax Reductions/Tax Exemptions
 - e. Gyeongsangnam Province Production Facilities Subsidies: Tax Reductions/Tax Exemptions
5. Grant Programs
 - a. GOK Subsidies for "Green Technology R&D" and its Commercialization
 - b. GOK 21st Century Frontier R&D Program/Information Display R&D Center Program
 - c. R&D Grants Discovered at Verification

B. Program Determined To Be Not Countervailable

- Gyeongsangnam Province and KEMCO Energy Savings Subsidies/ESF Program
- #### C. Programs Determined To Be Not Used
1. KEXIM Programs
 - A. KEXIM Short-Term Export Credit
 - B. KEXIM Export Loan Guarantees
 - C. KEXIM Trade Bill Rediscounting Program
 - D. KEXIM Export Factoring
 2. K-SURE—Export Credit Guarantees
 3. Gwangju Metropolitan City Programs
 - A. Relocation Grants
 - B. Facilities Grants
 - C. Employment Grants
 - D. Training Grants
 - E. Consulting Grants
 - F. Preferential Financing for Business Restructuring
 - G. Interest Grants for the Stabilization of Management Costs
 - H. "Special Support" for Large Corporate Investors
 - I. Research and Development and Other Technical Support Services

4. 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. Financing for the Stabilization of Business Activities
 - H. Special Support for Large Companies
- #### 5. Other GOK Programs
- 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. Targeted Facilities Subsidies through Korea Finance Corporation (KofC), KDB, and IBK "New Growth Engines Industry Fund"
 - D. GOK Green Fund Subsidies
 - E. IBK Preferential Loans to Green Enterprises
 - F. Gwangju "Photonics Industry Promotion Project" (PIPP) Product Development Support

V. Analysis of Comments

- Comment 1: Whether RSTA Article 25(2) is *De Facto* Specific
- Comment 2: Whether RSTA Article 25(2) relates to Subject Merchandise
- Comment 3: Whether RSTA Article 26 Benefits are Specific
- Comment 4: Whether RSTA Article 10(1)(3) is *De Facto* Specific
- Comment 5: Whether the Gwangju Metropolitan City and Gyeongsangnam Province Production Facilities Tax Reductions/Tax Exemptions are Specific
- Comment 6: Whether KDB/IBK Short-Term Discounted Loans for Export Receivables are Specific
- Comment 7: Whether SEC Received KDB/IBK Short-Term Discounted Loans for Export Receivables
- Comment 8: Whether D/A and O/A Financing Were Provided in Accordance With Market Interest Rates
- Comment 9: Whether K-SURE Charged Adequate Premiums in a Way that Covers Its Long-Term Costs and Losses
- Comment 10: Whether the Department Should Apply AFA to Calculate a Benefit to SEC from the K-SURE Export Insurance Program
- Comment 11: Whether SEC's K-SURE Payouts Relate to Subject Merchandise
- Comment 12: Whether K-SURE Benefits Granted to SEC's U.S. Affiliate Are Countervailable
- Comment 13: Whether the Green Technology R&D Program is Countervailable
- Comment 14: Whether Green Technology R&D Grants are tied to Non-Subject Merchandise
- Comment 15: Whether AFA Should be Applied to Grants Received by LGE from the 21st Century Frontier R&D Program
- Comment 16: Whether the Department Should Revise the Denominator Used to Calculate the Subsidy Rate for LGE's Use of the "Green Technology R&D" Program

Comment 17: Whether Grants Received by SGEN for Refrigerator Compressor R&D are Countervailable

Comment 18: Whether the Department Should Apply AFA to Grants Received by SGEN for Refrigerator Compressor R&D

Comment 19: Whether the Department Should Revise Sales Denominators to Reflect Changes from Verification

Comment 20: Whether there is Cross Ownership Among All of the Companies in the Samsung Group

Comment 21: Whether the Attribution Rules Were Correctly Applied to the Calculation of Benefits to SGEN, SEL and SEC

Comment 22: Whether the Department Should Attribute Any Subsidies Received by ServeOne to LGE

Comment 23: Whether the Department Should Continue to Find that SEC did not Use Other Programs

Comment 24: Whether Government Ownership Alone Transforms a Financial Institution Into a Government Authority

Comment 25: Whether the Department Properly Analyzed DWJ's Restructuring and Debt Adjustment under CRPA

Comment 26: Whether Private Investor Participation on DWJ/DWE's Creditors' Council Provides a Benchmark

Comment 27: Whether the Department's Analysis of the 2001 and 2002 Debt Restructuring Was Correct

Comment 28: Equityworthiness of DWJ/DWE at the Time of the 2001 and 2002 Debt-to-Equity Conversions

Comment 29: Whether the GOK and FSS Used KAMCO to Gain Control of DWJ/DWE's Creditors' Council

Comment 30: Whether the Department Should Establish a Zero Cash Deposit Rate for DWE

Comment 31: Whether the GOK-owned Creditors Held a Supermajority in DWE's 29th Creditors' Council Meeting

Comment 32: Whether the Reclassification of the KAMCO-Held Debentures to Long-Term Loans Results in a Countervailable Benefit

Comment 33: Whether Private Creditors Restructured Their Loans on the Same Basis and on the Same Terms

[FR Doc. 2012-7217 Filed 3-23-12; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-865]

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

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

APPENDIX B
LIST OF HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: Bottom Mount Combination Refrigerator-Freezers from Korea and Mexico

Inv. Nos.: 701-TA-477 and 731-TA-1180-1181 (Final)

Date and Time: March 13, 2012 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, D.C.

EMBASSY WITNESS:

**Embassy of Mexico
Washington, D.C.**

Salvador Behar, Legal Counsel for International Trade

In Support of the Imposition of Antidumping and Countervailing Duty Orders:

Cassidy Levy Kent
Washington, D.C.
on behalf of

Whirlpool Corporation

Dr. Marc Blitzer, President, Whirlpool North America

Thomas Schwyn, Vice President and Associate General Counsel,
Whirlpool North America

Justin Reinke, Product Director, Bottom Mount Refrigeration, Whirlpool
Corporation

Adrian Estrada, Director of Legal Services, Whirlpool North America

Colleen P. Laughlin, Vice President, Compass
Lexecon

Carl Moyer, Director of Economic Analysis,
Cassidy Levy Kent

Jack D. Greenwald)
) – OF COUNSEL
Jack A. Levy)

**In Opposition to the Imposition of
Antidumping and Countervailing Duty Orders:**

Akin Gump Strauss Hauer & Feld LLP
Washington, D.C.
on behalf of

Samsung Electronics Co., Ltd. (“SEC”)
Samsung Electronics Mexico S.A. de C.V. (“SEM”)
Samsung Electronics America, Inc. (“SEA”)

Kevin Dexter, Senior Vice President, Home Appliances, SEA

Kurt Jovais, Vice President of Marketing, Home Appliances, SEA

Eugene Seagriff, Marketing Manager, Refrigerators, SEA

I.S. Choi, Business Manager, Refrigerators, SEA

Daniel W. Klett, Economist, Capital Trade, Inc.

Warren E. Connelly)
) – OF COUNSEL
Jarrod M. Goldfeder)

Steptoe & Johnson LLP
Washington, D.C.
on behalf of

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, LG

Kibeom Kim, Senior Manager, International Group, LG

Daekwon Kim, Manager, International Group, LG

Young Noh, Product Manager, Digital Appliances, LG

Rick Wingate, Vice President and Regional General Counsel, LG

Daniel W. Klett, Economist, Capital Trade, Inc.

Richard O. Cunningham)
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Electrolux North America, Inc.
Electrolux Home Products, Inc.
Electrolux Home Products, Corp. N.V.

Matthew P. Jaffe) – OF COUNSEL

APPENDIX C
SUMMARY DATA

Table C-1

Bottom mount refrigerators: Summary data concerning the U.S. market, 2009-11

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Table C-2

Top mount refrigerators: Summary data concerning the U.S. market, 2009-11

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Table C-3

Side by side refrigerators: Summary data concerning the U.S. market, 2009-11

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Table C-4

Total refrigerators: Summary data concerning the U.S. market, 2009-11

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Table C-5

Bottom mount refrigerators: Summary data concerning the U.S. market (excluding *), 2009-11**

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APPENDIX D

**MARKET STUDIES OF FRENCH DOOR BOTTOM MOUNT
REFRIGERATORS**

Commission questionnaires requested that producers, importers, and purchasers submit all proprietary and public studies, analyses, and reports that discuss the following subjects, including the perceptions of consumers concerning these subjects, since January 1, 2009: quality of any French Door (FDR) models of bottom mount refrigerators; design, fit, feel, and/or finish of any FDR models; factors that influence any FDR purchase decisions of consumers; dealer perceptions of any FDR manufacturers or their products; or prices or relative prices of any FDR models.

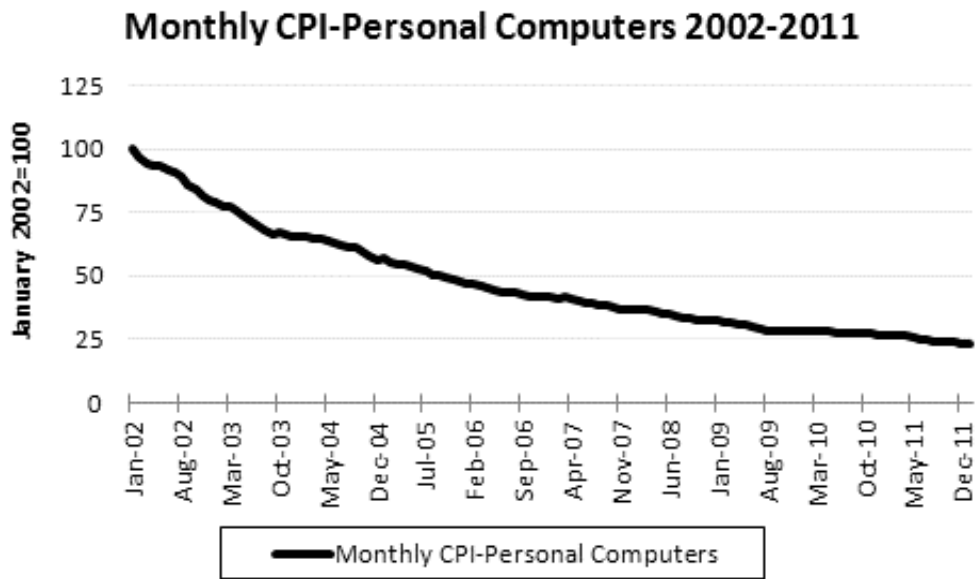
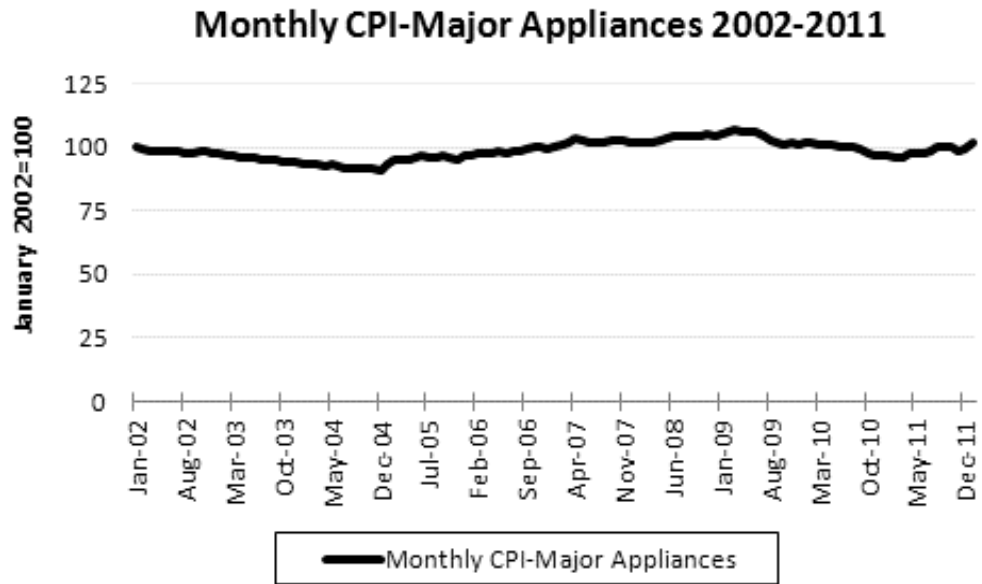
Summaries of such submitted studies are below.

* * * * *

APPENDIX E

CPI FOR MAJOR APPLIANCES AND PERSONAL COMPUTERS

**Table E-1
Consumer Price Indices (CPI) for Major Appliances and Personal Computers**



Source: BLS.

APPENDIX F
OTHER PRICING DATA

Table F-1
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic product 1A,¹ January 2009-December 2011

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Table F-2
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 1A,¹ January 2009-December 2011

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Table F-3
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic product 1B,¹ January 2009-December 2011

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Table F-4
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 1B,¹ January 2009-December 2011

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Table F-5
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic product 2A,¹ January 2009-December 2011

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Table F-6
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 2A,¹ January 2009-December 2011

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Table F-7
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic product 2B,¹ January 2009-December 2011

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Table F-8
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 2B,¹ January 2009-December 2011

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Table F-9
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 3A,¹ January 2009-December 2011

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Table F-10
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 3B,¹ January 2009-December 2011

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Table F-11
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic product 4A,¹ January 2009-December 2011

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Table F-12
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 4A,¹ January 2009-December 2011

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Table F-13
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic product 4B,¹ January 2009-December 2011

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Table F-14
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 4B,¹ January 2009-December 2011

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Table F-15
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 5A,¹ January 2009-December 2011

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Table F-16
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 5B,¹ January 2009-December 2011

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Table F-17
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic product 6A,¹ January 2009-December 2011

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Table F-18
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 6A from Korea,¹ January 2009-December 2011

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Table F-19
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 6A from Mexico,¹ January 2009-December 2011

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Table F-20
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of domestic product 6B,¹ January 2009-December 2011

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Table F-21
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 6B from Korea,¹ January 2009-December 2011

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Table F-22
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 6B from Mexico,¹ January 2009-December 2011

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Table F-23
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 7A from Korea,¹ January 2009-December 2011

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Table F-24
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 7A from Mexico,¹ January 2009-December 2011

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Table F-25
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 7B from Korea,¹ January 2009-December 2011

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Table F-26
Bottom mount refrigerators: Weighted-average f.o.b. prices and quantities of imported product 7B from Mexico,¹ January 2009-December 2011

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Table F-27
Bottom mount refrigerators: Margins off of MAP for product 1A from the United States,¹ January 2009-December 2011

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Table F-28
Bottom mount refrigerators: Margins off of MAP for product 1A from Mexico,¹ January 2009-December 2011

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Table F-29
Bottom mount refrigerators: Margins off of MAP for product 1B from the United States,¹ January 2009-December 2011

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Table F-30
Bottom mount refrigerators: Margins off of MAP for product 1B from Mexico,¹ January 2009-December 2011

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Table F-31
Bottom mount refrigerators: Margins off of MAP for product 2A from the United States,¹ January 2009-December 2011

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Table F-32
Bottom mount refrigerators: Margins off of MAP for product 2A from Korea,¹ January 2009-December 2011

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Table F-33
Bottom mount refrigerators: Margins off of MAP for product 2B from the United States,¹ January 2009-December 2011

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Table F-34
Bottom mount refrigerators: Margins off of MAP for product 2B from Korea,¹ January 2009-December 2011

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Table F-35
Bottom mount refrigerators: Margins off of MAP for product 3A from Korea,¹ January 2009-December 2011

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Table F-36
Bottom mount refrigerators: Margins off of MAP for product 3B from Korea,¹ January 2009-December 2011

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Table F-37

Bottom mount refrigerators: Margins off of MAP for product 4A from the United States,¹ January 2009-December 2011

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Table F-38

Bottom mount refrigerators: Margins off of MAP for product 4A from Korea,¹ January 2009-December 2011

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Table F-39

Bottom mount refrigerators: Margins off of MAP for product 4B from the United States,¹ January 2009-December 2011

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Table F-40

Bottom mount refrigerators: Margins off of MAP for product 4B from Korea,¹ January 2009-December 2011

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Table F-41

Bottom mount refrigerators: Margins off of MAP for product 5A from Korea,¹ January 2009-December 2011

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Table F-42

Bottom mount refrigerators: Margins off of MAP for product 5B from Korea,¹ January 2009-December 2011

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Table F-43

Bottom mount refrigerators: Margins off of MAP for product 6A from the United States,¹ January 2009-December 2011

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Table F-44

Bottom mount refrigerators: Margins off of MAP for product 6A from Korea,¹ January 2009-December 2011

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Table F-45

Bottom mount refrigerators: Margins off of MAP for product 6A from Mexico,¹ January 2009-December 2011

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Table F-46

Bottom mount refrigerators: Margins off of MAP for product 6B from the United States,¹ January 2009-December 2011

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Table F-47

Bottom mount refrigerators: Margins off of MAP for product 6B from Korea,¹ January 2009-December 2011

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Table F-48

Bottom mount refrigerators: Margins off of MAP for product 6B from Mexico,¹ January 2009-December 2011

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Table F-49

Bottom mount refrigerators: Margins off of MAP for product 7A from Korea,¹ January 2009-December 2011

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Table F-50

Bottom mount refrigerators: Margins off of MAP for product 7A from Mexico,¹ January 2009-December 2011

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Table F-51

Bottom mount refrigerators: Margins off of MAP for product 7B from Korea,¹ January 2009-December 2011

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Table F-52

Bottom mount refrigerators: Margins off of MAP for product 7B from Mexico,¹ January 2009-December 2011

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