



A-201-842  
Administrative Review  
POR: 02/01/2017 – 01/31/2018  
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September 24, 2019

**MEMORANDUM TO:** Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

**FROM:** James Maeder  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Issues and Decision Memorandum for the Final Results of the  
2017-2018 Administrative Review of the Antidumping Duty Order  
on Large Residential Washers from Mexico

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## I. SUMMARY

We analyzed the comments of the interested parties in the 2017-2018 administrative review of the antidumping duty (AD) order covering large residential washers (washers) from Mexico. As a result of our analysis, we made changes to the margin calculations for the only producer/exporter subject to this review, Electrolux Home Products Corp. N.V. and Electrolux Home Products de Mexico, S.A. de C.V. (collectively, Electrolux). We recommend that you approve the positions described in the “Discussion of Issues” section of this memorandum. Below is the complete list of issues in this administrative review for which we received comments from the interested parties:

Comment 1: Constructed Export Price Offset for Electrolux’s Canadian Sales  
Comment 2: Currency Conversion Errors in Electrolux’s Macros Program

## II. BACKGROUND

On April 10, 2019, the Department of Commerce (Commerce) published the *Preliminary Results* of this administrative review.<sup>1</sup> The period of review (POR) is February 1, 2017 through January 31, 2018.

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<sup>1</sup> See *Large Residential Washers from Mexico: Preliminary Results of the Antidumping Duty Administrative Review; 2017-2018*, 84 FR 14341 (April 10, 2019) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).



We invited parties to comment on the *Preliminary Results*.<sup>2</sup> On May 10, 2019, we received a case brief on behalf of Electrolux<sup>3</sup> and, on May 17, 2019, we received a rebuttal brief on behalf of Whirlpool Corporation (the petitioner).<sup>4</sup> After analyzing the comments received, we changed the weighted-average dumping margin for Electrolux from that presented in the *Preliminary Results*.

### III. MARGIN CALCULATIONS

For Electrolux, we calculated constructed export price (CEP) and normal value (NV) using the same methodology stated in the *Preliminary Results*, except as follows:

- We applied a CEP offset to the calculation of NV. *See* Comment 1.
- We removed the conversion of certain variables in our macros program to: (1) Canadian dollars (*i.e.*, REVENU, COGSU, SELLEXP, and MOVEXP) because these fields are being compared to variables which are already in U.S. dollars; and (2) U.S. dollars (*i.e.*, INDDOL, COMMDOL, and ICOMMDOL) because these variables are already in U.S. dollars.<sup>5</sup> *See* Comment 2.
- We reclassified certain warranty expenses in the comparison market (*i.e.*, WARR2T) as indirect selling expenses.<sup>6</sup>

### IV. DISCUSSION OF ISSUES

#### Comment 1: CEP Offset for Electrolux's Canadian Sales

##### *Electrolux's Case Brief*

- In the *Preliminary Results*, Commerce determined that a CEP offset was not warranted because Electrolux's CEP sales and the sales made in the comparison market were made at the same level of trade (LOT).
- However, Commerce incorrectly compared the selling functions performed by Electrolux's Mexican-based division, Electrolux Home Products Corp. N.V. (BMX), for Canadian and U.S. sales. Commerce's analysis contravenes section 772(d) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.412(c).<sup>7</sup>
- Commerce should, as it did in prior segments, compare the activities performed by Electrolux Canada Corp. (CDW), the company that performs the selling functions for

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<sup>2</sup> *Id.* at 14342.

<sup>3</sup> *See* Electrolux's Case Brief, "Antidumping Duty Administrative Review of Large Residential from Mexico: Electrolux Case Brief," dated May 10, 2019 (Electrolux's Case Brief).

<sup>4</sup> *See* Whirlpool Corporation's Rebuttal Brief, "Large Residential Washers from Mexico: Resubmission of Whirlpool Corporation's Rebuttal Brief," dated May 17, 2019 (Petitioner's Rebuttal Brief).

<sup>5</sup> *See* Memorandum, "Calculations for the Final Results," dated concurrently with this memorandum (Electrolux Calculation Memorandum).

<sup>6</sup> *See* Electrolux's June 1, 2018 Section B Questionnaire Response (Electrolux June 1, 2018 BQR) at B-41.

<sup>7</sup> *See* Electrolux's Case Brief at 3.

Electrolux's Canadian sales, to the functions performed by BMX, the company that performs the selling functions for Electrolux's U.S. sales.<sup>8</sup>

- According to the Act and Commerce's regulations, the LOT for the comparison market is identified based on the "starting price or the constructed value" before any adjustment. In this case, because NV was based on CDW's sales to its customers in Canada, the prices of these sales should be used to identify the LOTs for comparison market sales.<sup>9</sup>
- The purpose of identifying the LOT is to evaluate whether the CEP and NV sales were made at the same LOT, so it is illogical to look at selling functions performed by entities other than those that made the sale. If the sales are not made at the same LOT, then an adjustment is required to ensure an accurate comparison.<sup>10</sup>
- Commerce incorrectly relied on *Orange Juice from Brazil* in its explanation of why a CEP offset is not warranted in this case. In *Orange Juice from Brazil*, NV was based on home market, not third country, sales. In that case, the only selling functions that could be evaluated were those performed by the respondent company in its home market and for its sales to the United States. Therefore, the exporter was the only entity whose selling functions mattered to Commerce's LOT analysis.<sup>11</sup>
- In *Shrimp from Thailand*, Commerce analyzed the selling functions performed by foreign affiliates in third countries for NV sales.<sup>12</sup>
- Here, for Electrolux, Commerce is determining NV based on third country sales, and it must identify the selling functions based on the entity that is making those sales (*i.e.*, CDW).<sup>13</sup>
- Commerce should grant a CEP offset to Electrolux because it is Electrolux's U.S. affiliate, Electrolux Major Appliances North America (UWA), that is providing sales

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<sup>8</sup> See Electrolux's Case Brief at 3 (citing *Large Residential Washers from Mexico: Preliminary Results of the Antidumping Duty Administrative Review; 2015-2016*, 82 FR 12538 (March 6, 2017), and accompanying PDM at 9-10, unchanged in *Large Residential Washers from Mexico: Final Results of the Antidumping Duty Administrative Review; 2015-2016*, 82 FR 32169 (July 12, 2017)).

<sup>9</sup> See Electrolux's Case Brief at 3-4 (citing section 773(a)(1)(B)(i) of the Act; 19 CFR 351.412(c)(1)(iii); *Micron Tech., Inc. v. United States*, 243 F. 3d 1301, 1314-16 (Fed. Cir. 2001); *Large Residential Washers from Mexico: Preliminary Results of the Antidumping Duty Administrative Review; 2014-2015*, 81 FR 12873 (March 11, 2016), and accompanying PDM at 8, unchanged in *Large Residential Washers from Mexico: Final Results of the Antidumping Duty Administrative Review*, 81 F 62714 (September 12, 2016); and *Certain Uncoated Paper from Brazil: Preliminary Results of Antidumping Duty Administrative Review; 2015-2017*, 83 FR 15368 (April 10, 2018), and accompanying PDM at 9, unchanged in *Certain Uncoated Paper from Brazil: Final Results of Antidumping Duty Administrative Review; 2015-2017*, 83 FR 52804 (October 18, 2018)).

<sup>10</sup> *Id.* at 4.

<sup>11</sup> *Id.* at 4-5 (citing *Preliminary Results PDM* at 10; *Certain Orange Juice from Brazil: Preliminary Results of Antidumping Duty Administrative Review and Preliminary No Shipment Determination*, 77 FR 21724, 21729-30 (April 11, 2012) (*Orange Juice from Brazil*), unchanged in relevant part in *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination*, 77 FR 63291 (October 16, 2012); and *Certain Frozen Warmwater Shrimp from Thailand: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 10000, 10005 (March 9, 2009), unchanged in *Frozen Warmwater Shrimp Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 47551 (September 16, 2009) (*Shrimp from Thailand*), and accompanying IDM at Comment 8 and n.14, *aff'd*, *Pakfood Pub. Co. v. United States*, 724 F. Supp. 2d 1327, 1343-44 (CIT 2010) (considering the selling activities performed by the foreign affiliate in the third country)).

<sup>12</sup> *Id.* (citing *Shrimp from Thailand*).

<sup>13</sup> See Electrolux's Case Brief at 5.

support for Electrolux's CEP sales, and the expenses associated with that support are being deducted from U.S. net price. In the comparison market, CDW is providing similar sales support for Electrolux's Canadian sales but the expenses associated with that support are not being deducted from NV. As a result, there is an imbalance between the two markets.<sup>14</sup>

- Electrolux's selling functions have not changed materially since prior segments in which Commerce granted Electrolux a CEP offset.<sup>15</sup>

### *Petitioner's Rebuttal Brief*

- Electrolux is not entitled to a CEP offset because there is no difference in the LOTs between Electrolux's U.S. and Canadian sales and there is no meaningful difference between the selling activities of Electrolux's affiliates in the United States and Canada.
- The CEP offset provision of the Act only applies if differences in the LOTs exist between the U.S. and comparison markets.<sup>16</sup>
- Electrolux does not dispute Commerce's finding that the Canadian and U.S. markets each contain one LOT.
- Electrolux's selling functions chart shows that there is no difference between the selling functions of CDW or UWA; thus, there is no meaningful difference in the LOTs, and Electrolux has failed to meet the statutory threshold to obtain a CEP offset.<sup>17</sup>

**Commerce's Position:** In the *Preliminary Results*, we determined the LOTs of Electrolux's Canadian and U.S. sales based on the selling activities of BMX in each market. For the final results, however, we have defined the LOT for NV based on the "starting price or constructed value" before any deductions under section 773(a)(6) of the Act and the LOT for CEP sales based on "the starting price, as adjusted under section 772(d) of the Act."<sup>18</sup> As a result of our revised analysis, set forth below, we now find that a CEP offset is warranted for Electrolux for the final results.

In the Canadian market, Electrolux reported making sales through four channels of distribution: (1) sales that the customer picks up from its El Paso warehouse; (2) sales that its Canadian affiliate (*i.e.*, Electrolux Canada Corp. (CDW)) arranges with its U.S. affiliate, Electrolux Major Appliances North America (UWA), to have delivered from the El Paso warehouse to CDW's customer; (3) sales that the customer picks up from CDW's regional distribution center (RDC); and (4) sales that CDW delivers from the RDC to the customer.<sup>19</sup> We examined the selling activities performed in the comparison market related to the starting price (*i.e.*, the price charged to the unaffiliated customer by CDW), and we found that Electrolux performed the following

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<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> See Petitioner's Rebuttal Brief at 1-2 (citing section 773(a)(7)(B) of the Act; and *Roller Chain, Other than Bicycle, from Japan: Final Results of Antidumping Duty Administrative Review, and Determination Not to Revoke in Part*, 61 FR 64322, 64326 (December 4, 1996) (*Roller Chain*)).

<sup>17</sup> See Petitioner's Rebuttal Brief at 6 (citing *Roller Chain*, 61 FR at 64326).

<sup>18</sup> See 19 CFR 351.412(c); and *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27370 (May 19, 1997) (*Preamble*).

<sup>19</sup> See Electrolux June 1, 2018 BQR at B-16 to B-17.

selling functions: sales forecasting, strategic/economic planning, personnel training/exchange, engineering services, advertising, sales promotion, distributor/dealer training, procurement/sourcing services, packing, order input/processing, direct sales/personnel, sales/marketing support, market research, technical assistance, provide rebates, provide cash discounts, provide warranty service, provide guarantees, provide after-sales services, and provide freight and delivery.<sup>20</sup> These selling functions can be generally grouped into four selling function categories for analysis: (1) sales and marketing; (2) freight and delivery services; (3) inventory maintenance and warehousing; and (4) warranty and technical support. Accordingly, based on these selling function categories, we find that Electrolux performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical support for sales through all four of its Canadian channels of distribution at a similar level of intensity. Therefore, we determine that Electrolux's Canadian market sales constitute one LOT.

In the United States, Electrolux reported making CEP sales through the following four channels of distribution: (1) sales that the customer picks up from the El Paso warehouse; (2) sales that UWA delivers from the El Paso warehouse to the customer; (3) sales that the customer picks up from a UWA RDC; and (4) sales that UWA delivers from the RDC to the customer.<sup>21</sup> We examined the selling activities Electrolux performed in each channel, exclusive of the selling activities listed in section 772(d) of the Act (*i.e.*, those activities performed by UWA in the United States),<sup>22</sup> and find that Electrolux performed only packing services for each of its four U.S. channels of distribution at the same level of intensity.<sup>23</sup> As a result, we determine that Electrolux's CEP sales constitute one LOT.<sup>24</sup>

We then compared the CEP LOT, after excluding the selling activities listed in section 772(d) of the Act, to the Canadian market LOT and found that there were significant differences between the selling functions performed for U.S. and Canadian customers. Specifically, we found that three of the four selling function categories (*i.e.*, sales and marketing, inventory maintenance and warehousing, and warranty and technical support) are performed by CDW in the Canadian market but not by BMX in the United States. Based on the foregoing analysis, we determined that the NV LOT is at a more advanced stage of distribution than the CEP LOT and that no LOT adjustment is possible. Accordingly, for the final results, we granted a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f).

Thus, while we agree with the petitioner that there is one LOT in the comparison market and one LOT in the U.S. market, we disagree that the LOT in the U.S. market includes the selling activities of the U.S. affiliate (*i.e.*, UWA). Section 351.412(c)(ii) of our regulations states that, for CEP sales, Commerce "will identify the {LOT} based on . . . the starting price, as adjusted under section 772(d) of the Act."<sup>25</sup> Thus, we remove the selling activities associated with the expenses listed in section 772(d) of the Act (*i.e.*, the selling activities that occurred within the

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<sup>20</sup> See Electrolux's October 9, 2019 Second Supplemental Section A Questionnaire Response (Electrolux October 9, 2019 SSAQR) at Exhibit SS-1.

<sup>21</sup> See Electrolux's June 1, 2018 Section C Questionnaire Response at C-16.

<sup>22</sup> See 19 CFR 351.412(c)(ii).

<sup>23</sup> See Electrolux October 9, 2019 SSAQR at Exhibit SS-1.

<sup>24</sup> *Id.*

<sup>25</sup> See 19 CFR 351.412(c)(ii).

United States performed by UWA) to determine the LOT of the CEP sales. We then compare this CEP LOT to the NV LOT, which is based on the starting price without adjustments pursuant to section 773(a)(6) of the Act, to see if significant differences exist such that a CEP offset is warranted pursuant to section 773(a)(7)(B) of the Act, as discussed above. Furthermore, “{t}he statute directs {Commerce} to determine {NV} at the LOT of the CEP, which includes any CEP deductions under section 772(d) {of the Act}.”<sup>26</sup> In the *Preamble*, when enacting 19 CFR 351.412(c), Commerce stated the following regarding this issue:

We note that many of the commenters opposed to the use of adjusted CEP appear to believe that the deductions under section 772(d) involve all direct and indirect expenses. However, as discussed above in connection with Sec. 351.402, the deduction under section 772(d) removes only expenses associated with economic activities in the United States. Thus, CEP is not a price exclusive of all selling expenses, because it contains the same type of selling expenses as a directly observed export price.<sup>27</sup>

The petitioner cites *Roller Chain from Japan* as support for including the activities of UWA in our analysis of the CEP LOT; however, the CEP sales in that case involved “an affiliated, multi-party chain,” which included an affiliated home market trading company and an affiliated U.S. distributor.<sup>28</sup> To find the CEP LOT, we removed the selling activities performed by the U.S. affiliate, but we did not deduct the activities of the home market affiliate involved in the CEP sales, as these activities would not be adjusted under section 772(d) of the Act. When we compared the CEP LOT to the home market LOT in *Roller Chain from Japan*, we found the sales to be at the same phase of marketing and, thus, a CEP offset was not warranted. The instant review does not involve a similar affiliated, multi-party chain with an affiliated home market company involved in Electrolux’s CEP sales that we would consider in our LOT analysis. Instead, almost all of the selling activities performed for Electrolux’s CEP sales occur in the United States, and these activities are removed from our determination of the CEP LOT, pursuant to 19 CFR 351.412(c)(ii) and section 772(d) of the Act. Thus, in accordance with our practice, we determined whether to grant Electrolux a CEP offset here by comparing the selling activities of the home market respondent and third country comparison market affiliate to the selling activities of the respondent in the United States after deducting the selling activities of the U.S. affiliate.<sup>29</sup> Consequently, after analyzing Electrolux’s selling functions pursuant to the law and our practice, as set forth above, we find that a CEP offset is warranted for Electrolux in these final results.

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<sup>26</sup> See *Preamble*, 62 FR at 27371.

<sup>27</sup> *Id.*

<sup>28</sup> See *Roller Chain*, 61 FR at 64326.

<sup>29</sup> See, e.g., *Certain Stilbenic Optical Brightening Agents from Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 9292 (March 14, 2019), and accompanying PDM at 10-11, unchanged in relevant part in *Certain Stilbenic Optical Brightening Agents from Taiwan: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 34860 (July 19, 2019), and accompanying IDM at Comment 4; and *Notice of Preliminary Results and Preliminary Determination to Revoke Order in Part: Canned Pineapple Fruit from Thailand*, 69 FR 18524, 18529 (April 8, 2004), unchanged in relevant part in *Notice of Final Results of Antidumping Duty Administrative Review and Final Determination to Revoke Order in Part: Canned Pineapple Fruit from Thailand*, 69 FR 50164 (August 13, 2004).

## Comment 2: Currency Conversion Errors in Electrolux's Macros Program

### *Electrolux's Case Brief*

- In the *Preliminary Results*, Commerce erroneously applied conversion rates to certain variables in the macros program.
- In Macro US-5, Commerce converted the variables REVENU, COGSU, SELLEXP, and MOVEXP into Canadian dollars to compare them with Canadian sales data. However, the Canadian variables were already reported in U.S. dollars.<sup>30</sup>
- In Macros US-10 and US-11, Commerce converted the variables INDDOL, COMMDOL, and ICOMMDOL to U.S. dollars. However, these variables are based on Canadian sales data reported in U.S. dollars.<sup>31</sup>

No other party commented on this issue.

**Commerce's Position:** We agree that we made the currency conversion errors noted above in Macros US-5, US-10, and US-11. Therefore, we corrected these errors in our calculations for the final results.<sup>32</sup>

## V. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting all of the above positions. If this recommendation is accepted, we will publish the final results of this administrative review in the *Federal Register*.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

9/24/2019

X 

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

<sup>30</sup> See Electrolux's Case Brief at 6 and Exhibit 1.

<sup>31</sup> *Id.*

<sup>32</sup> See Electrolux Calculation Memorandum.