



A-201-842  
Administrative Review  
POR: 02/01/2018- 01/31/2019  
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February 20, 2020

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

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

**SUBJECT:** Decision Memorandum for the Preliminary Results of the  
2018-2019 Administrative Review of the Antidumping Duty Order  
on Large Residential Washers from Mexico

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## I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on large residential washers (washers) from Mexico, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). The period of review (POR) is February 1, 2018 through January 31, 2019. The review covers one producer/exporter of the subject merchandise, Electrolux Home Products Corp. N.V. and Electrolux Home Products de Mexico, S.A. de C.V. (collectively, Electrolux). We preliminarily determine that Electrolux's sales of the subject merchandise have been made at prices less than normal value (NV) during the POR.

## II. BACKGROUND

In February 2013, Commerce published in the *Federal Register* an AD order on washers from Mexico.<sup>1</sup> On February 8, 2019, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the AD order on washers from Mexico for the POR.<sup>2</sup> Pursuant to section 751(a)(1) of the Act and 19 CFR 351.213(b)(1), Commerce received a request to conduct an administrative review of the AD order on washers from Mexico from

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<sup>1</sup> See *Large Residential Washers from Mexico and the Republic of Korea: Antidumping Duty Orders*, 78 FR 11148 (February 15, 2013).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 84 FR 2816 (February 8, 2019).

Whirlpool Corporation, the petitioner in this proceeding.<sup>3</sup> On May 2, 2019, based on this timely request for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the AD order on washers from Mexico.<sup>4</sup>

In June and July 2019, we received timely responses from Electrolux to Commerce’s AD questionnaire.<sup>5</sup> In September 2019, we issued a supplemental questionnaire to Electrolux, and we received timely responses in September and October 2019.<sup>6</sup> In October 2019, we extended the preliminary results of this review to no later than February 28, 2020.<sup>7</sup> Finally, in November 2019, we issued an additional supplemental questionnaire to Electrolux, and we received a timely response in December 2019.<sup>8</sup>

### **III. SCOPE OF THE ORDER**

The products covered by this order are all large residential washers and certain subassemblies thereof from Mexico.

For purposes of this order, the term “large residential washers” denotes all automatic clothes washing machines, regardless of the orientation of the rotational axis, except as noted below, with a cabinet width (measured from its widest point) of at least 24.5 inches (62.23 cm) and no more than 32.0 inches (81.28 cm).

Also covered are certain subassemblies used in large residential washers, namely: (1) all assembled cabinets designed for use in large residential washers which incorporate, at a minimum: (a) at least three of the six cabinet surfaces; and (b) a bracket; (2) all assembled tubs<sup>9</sup> designed for use in large residential washers which incorporate, at a minimum: (a) a tub; and (b) a seal; (3) all assembled baskets<sup>10</sup> designed for use in large residential washers which incorporate, at a minimum: (a) a side wrapper;<sup>11</sup> (b) a base; and (c) a drive hub;<sup>12</sup> and (4) any combination of the foregoing subassemblies.

Excluded from the scope are stacked washer-dryers and commercial washers. The term “stacked washer-dryers” denotes distinct washing and drying machines that are built on a unitary frame

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<sup>3</sup> See Petitioner’s Letter, “Large Residential Washers from Mexico: Request for Administrative Review of Antidumping Duty Order,” dated February 26, 2019.

<sup>4</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 18777 (May 2, 2019).

<sup>5</sup> See Electrolux’s June 12, 2019 Section A Questionnaire Response; see also Electrolux’s July 19, 2019, Sections B-D Questionnaire Response (Electrolux’s July 19, 2019 BCDQR).

<sup>6</sup> See Electrolux’s September 30, 2019 Supplemental Section A Questionnaire Response; see also Electrolux’s October 2, 2019 Supplemental Sections B-D Questionnaire Response.

<sup>7</sup> See Memorandum, “Large Residential Washers from Mexico: Extension of the Deadline for Preliminary Results of the 2018-2019 Antidumping Duty Administrative Review,” dated October 21, 2019.

<sup>8</sup> See Electrolux’s December 9, 2019 Supplemental Sections A-D Questionnaire Response (Electrolux’s December 9, 2019 SABCDQR).

<sup>9</sup> A “tub” is the part of the washer designed to hold water.

<sup>10</sup> A “basket” (sometimes referred to as a “drum”) is the part of the washer designed to hold clothing or other fabrics.

<sup>11</sup> A “side wrapper” is the cylindrical part of the basket that actually holds the clothing or other fabrics.

<sup>12</sup> A “drive hub” is the hub at the center of the base that bears the load from the motor.

and share a common console that controls both the washer and the dryer. The term “commercial washer” denotes an automatic clothes washing machine designed for the “pay per use” market meeting either of the following two definitions:

(1) (a) it contains payment system electronics;<sup>13</sup> (b) it is configured with an externally mounted steel frame at least six inches high that is designed to house a coin/token operated payment system (whether or not the actual coin/token operated payment system is installed at the time of importation); (c) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners;<sup>14</sup> *or*

(2) (a) it contains payment system electronics; (b) the payment system electronics are enabled (whether or not the payment acceptance device has been installed at the time of importation) such that, in normal operation,<sup>15</sup> the unit cannot begin a wash cycle without first receiving a signal from a *bona fide* payment acceptance device such as an electronic credit card reader; (c) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners.

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

The products subject to this order are currently classifiable under subheadings 8450.20.0040 and 8450.20.0080 of the Harmonized Tariff System of the United States (HTSUS). Products subject to this order may also enter under HTSUS subheadings 8450.11.0040, 8450.11.0080, 8450.90.2000, and 8450.90.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.

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<sup>13</sup> “Payment system electronics” denotes a circuit board designed to receive signals from a payment acceptance device and to display payment amount, selected settings, and cycle status. Such electronics also capture cycles and payment history and provide for transmission to a reader.

<sup>14</sup> A “security fastener” is a screw with a non-standard head that requires a non-standard driver. Examples include those with a pin in the center of the head as a “center pin reject” feature to prevent standard Allen wrenches or Torx drivers from working.

<sup>15</sup> “Normal operation” refers to the operating mode(s) available to end users (*i.e.*, not a mode designed for testing or repair by a technician).

## IV. DISCUSSION OF THE METHODOLOGY

### A. Date of Sale

Section 351.401(i) of Commerce’s regulations states that, “{i}n identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer’s records kept in the ordinary course of business.” Further, the regulations provide that Commerce may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.<sup>16</sup> Commerce has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.<sup>17</sup>

Electrolux reported the earlier of invoice date or factory shipment date as the date of sale for its comparison market and U.S. sales.<sup>18</sup> Accordingly, we preliminarily followed Commerce’s long-standing practice of basing the date of sale for all of Electrolux’s comparison market and U.S. sales on the earlier of the invoice or shipment date.<sup>19</sup>

### B. Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether Electrolux’s sales of washers from Mexico to the United States were made at less than NV, Commerce compared the constructed export price (CEP) to the NV as described in the “Constructed Export Price” and “Normal Value” sections of this memorandum.

#### 1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average export prices (EPs) (or CEPs) (*i.e.*, the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value (LTFV) investigations, Commerce examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales (*i.e.*, the average-to-transaction (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce’s examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR

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<sup>16</sup> See 19 CFR 351.401(i); see also *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

<sup>17</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004) (*Shrimp from Thailand*), and accompanying Issues and Decision Memorandum (IDM) at Comment 10; and *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002) (*Steel Beams from Germany*), and accompanying IDM at Comment 2.

<sup>18</sup> See Electrolux’s July 19, 2019 BCDQR at B-18 and C-16.

<sup>19</sup> See, e.g., *Shrimp from Thailand* IDM at Comment 10; and *Steel Beams from Germany* IDM at Comment 2.

351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in LTFV investigations.<sup>20</sup>

In numerous AD investigations and reviews, Commerce has applied a “differential pricing” analysis for determining whether application of the A-A method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>21</sup> Commerce finds that the differential pricing analysis used in investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce’s additional experience with addressing the potential masking of dumping that can occur when Commerce uses the A-A method in calculating a respondent’s weighted-average dumping margin.

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

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region, or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices

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<sup>20</sup> See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying IDM at Comment 1; see also *JBF RAK LLC v. United States*, 790 F. 3d 1358, 1363-65 (Fed. Cir. 2015) (“{t}he fact that the statute is silent with regard to administrative reviews does not preclude Commerce from filling gaps in the statute to properly calculate and assign antidumping duties”) (citations omitted).

<sup>21</sup> See, e.g., *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

to the particular purchaser, region, or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium, or large (0.2, 0.5, and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the A-T method to all sales as an alternative to the A-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the A-A method and application of the A-A method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method.

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

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

## 2. Results of the Differential Pricing Analysis

For Electrolux, based on the results of the differential pricing analysis, Commerce preliminarily finds that 44.07 percent of the value of U.S. sales pass the Cohen's *d* test<sup>22</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that the A-A method cannot account for such differences because the weighted-average dumping margin crosses the *de minimis* threshold when calculated using the A-A method and when calculated using an alternative comparison method based on applying the A-T method to those U.S. sales which passed the Cohen's *d* test and the A-A method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, Commerce is applying the A-T method to those U.S. sales which passed the Cohen's *d* test and the A-A method to those sales which did not pass the Cohen's *d* test to calculate the weighted-average dumping margin for Electrolux.

### **C. Product Comparisons**

In accordance with section 771(16) of the Act, we considered all products produced by Electrolux covered by the description in the "Scope of the Order" section and sold in the comparison market during the POR to be foreign like products for purposes of determining NV for the merchandise sold in the United States. Pursuant to 19 CFR 351.414(f), we compared Electrolux's U.S. sales to sales of washers made in the third country comparison market within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. sale.

Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade to compare to U.S. sales, according to section 771(16)(B) of the Act, we compared Electrolux's U.S. sales to either sales of the most similar foreign like product made in the ordinary course of trade or to constructed value (CV), pursuant to section 773(a)(4) of the Act, as appropriate. In making product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: unit type, washer type, capacity measurement, drying system, finish/color of front panel, user interface display, specialty cycle, door/lid material, motor type, water heater, and shoe care function.

### **D. Constructed Export Price**

For all sales made by Electrolux, we defined U.S. price based on the CEP methodology, in accordance with section 772(b) of the Act, because the merchandise under consideration was sold in the United States by Electrolux's affiliate, Electrolux Major Appliances North America (UWA), and EP was not otherwise warranted based on the facts of the record.

We based CEP on the packed prices to the first unaffiliated purchaser in the United States. We adjusted the starting price for billing adjustments, early payment discounts, other discounts, and rebates, where appropriate, pursuant to 19 CFR 351.401(c). We made deductions for movement

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<sup>22</sup> See Memorandum, "Calculations for the Preliminary Results of the 2018-2019 Administrative Review," dated concurrently with this memorandum (Electrolux Preliminary Analysis Memorandum).

expenses (*e.g.*, foreign inland freight expenses, foreign warehousing expenses, foreign customs fees, inland insurance expenses, U.S. inland freight expenses, and U.S. warehousing expenses), in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, imputed credit expenses, advertising expenses, finance fees, and direct warranty expenses) and indirect selling expenses (*i.e.*, inventory carrying costs, indirect warranty expenses, and other indirect selling expenses). Finally, we made an adjustment for CEP profit allocated to these expenses in accordance with section 772(d)(3) of the Act.

## **E. Normal Value**

### **1. Home Market Viability and Selection of Comparison Market**

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of Electrolux's home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

Based on this comparison, we determined that, pursuant to 19 CFR 351.404(b), the aggregate volume of Electrolux's home market sales of the foreign like product was insufficient to permit a proper comparison with U.S. sales of the subject merchandise. Therefore, we used sales to Canada as the basis for comparison market sales, in accordance with section 773(a)(1)(C)(ii) of the Act. We selected Canada as the comparison market because it is Electrolux's only viable third country market.

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

In this review, Electrolux sold foreign like product to affiliated and unaffiliated customers in the comparison market as defined in section 771(33) of the Act. Commerce calculates NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the producer or exporter, *i.e.*, sales at "arm's length."<sup>23</sup> To test whether Electrolux's sales to affiliated customers were made at arm's-length prices, we compared, on a model-specific basis, the starting prices of sales to affiliated and unaffiliated customers, net of all applicable billing adjustments, discounts and rebates, movement charges, direct selling expenses, and packing expenses. Where the price to the affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to unaffiliated parties, we determined that sales made to the affiliated party were at arm's length and included such sales in the calculation of NV.<sup>24</sup> Sales to affiliated customers in the comparison market that were not made at arm's-length prices were

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<sup>23</sup> See 19 CFR 351.403(c).

<sup>24</sup> See *Stainless Steel Sheet and Strip in Coils from Japan: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 39615 (August 7, 2009), unchanged in *Stainless Steel Sheet and Strip in Coils from Japan: Final Results of Antidumping Duty Administrative Review*, 75 FR 6631 (February 10, 2010).

excluded from our analysis because we considered them to be outside the ordinary course of trade.<sup>25</sup>

### 3. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).<sup>26</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>27</sup> In order to determine whether the comparison market sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),<sup>28</sup> we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.<sup>29</sup>

When Commerce is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, Commerce may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment was possible), Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.<sup>30</sup>

In this administrative review, we obtained information from Electrolux regarding the marketing stages involved in making reported third country and U.S. sales, including a description of the selling activities performed by Electrolux for each channel of distribution.<sup>31</sup> Selling activities can generally be grouped into five categories for our analysis: Provision of Sales Support,<sup>32</sup>

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<sup>25</sup> See section 771(15) of the Act; *see also* 19 CFR 351.102(b) (defining “ordinary course of trade”).

<sup>26</sup> See 19 CFR 351.412(c)(2).

<sup>27</sup> *Id.*; *see also Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010) (*OJ from Brazil*), and accompanying IDM at Comment 7.

<sup>28</sup> Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general, and administrative (SG&A) expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

<sup>29</sup> See *Micron Tech., Inc. v. United States*, 243 F. 3d 1301, 1314-16 (Fed. Cir. 2001).

<sup>30</sup> See, e.g., *OJ from Brazil* IDM at Comment 7.

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

<sup>32</sup> The Provision of Sales Support can include: sales forecasting, strategic/economic planning, advertising, sales promotion, sales/marketing support, market research, and other related activities. See Electrolux’s December 9, 2019 SABCDQR, at Exhibit Supp2-3.

Provision of Training Services,<sup>33</sup> Provision of Technical Support,<sup>34</sup> Provision of Logistical Services,<sup>35</sup> and Performance of Sales Related Administrative Activities.<sup>36</sup>

In the Canadian market, Electrolux reported making sales through four channels of distribution: (1) sales that the customer picks up from the El Paso warehouse; (2) sales that its Canadian affiliate (*i.e.*, Electrolux Canada Corp. (CDW)) arranges with its U.S. affiliate, 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 UWA delivers from the RDC to the customer.<sup>37</sup> According to Electrolux, CDW and UWA performed the following selling functions to sell to all comparison market customers: sales forecasting; strategic planning; advertising; sales promotion; sales/marketing support; market research; direct sales personnel; personnel training; distributor/dealer training; engineering services; technical assistance; procurement/sourcing services; after-sale services; inventory maintenance; freight and delivery; order input/processing; rebate programs; cash discounts; warranty service; and guarantees.<sup>38</sup>

As noted above, selling activities can be generally grouped into five selling function categories. Based on these selling function categories, we find that Electrolux and its affiliates performed sales support, training services, technical support, logistical services, and sales related administrative activities for all Canadian sales. Thus, we preliminarily find that Electrolux's comparison market sales were made at one LOT.

With respect to the U.S. market, Electrolux reported that it made 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 RDC; and (4) sales that UWA delivers from the RDC to the customer.<sup>39</sup> According to Electrolux, the Mexican-based division of Electrolux, Electrolux Home Products Corp. N.V. (BMX), performed the following selling functions at the same level of intensity to sell to all U.S. customers: packing.<sup>40</sup> Based on the selling function categories noted above, we find that BMX performed logistical services for all U.S. customers. As a result, we preliminarily determine that Electrolux's CEP sales constitute one LOT.

Finally, we compared the CEP LOT 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 four of the five selling functions (*i.e.*, provision of sales support, provision of training services, provision of technical support, and performance of sales-related

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<sup>33</sup> The Provision of Training Services can include: personnel training/exchange, distributor/dealer training, and other related activities. *Id.*

<sup>34</sup> The Provision of Technical Support can include: engineering services, technical assistance, and other related activities. *Id.*

<sup>35</sup> The Provision of Logistical Services can include: inventory maintenance, post-sale warehousing, repacking, freight and delivery, and other related activities. *Id.*

<sup>36</sup> The Performance of Sales Related Administrative Activities can include: order input/processing, rebate programs, warranty service, and other related activities. *Id.*

<sup>37</sup> See Electrolux's December 9, 2019 SABCDQR, at Exhibit Supp2-3 and Supp2-4; and Memorandum, "Phone Call with Counsel," dated February 13, 2020 (Selling Functions Clarification Memo).

<sup>38</sup> See Electrolux's December 9, 2019 SABCDQR, at Exhibit Supp2-3.

<sup>39</sup> *Id.* at Exhibit Supp2-3 and Supp2-4; and Selling Functions Clarification Memo.

<sup>40</sup> See Electrolux's December 9, 2019 SABCDQR, at Exhibit Supp2-3.

administrative activities) are performed by Electrolux in the Canadian market but not in the U.S. market. Based on the foregoing analysis, we preliminarily determine that the NV LOT is at a more advanced stage of distribution than the CEP LOT and that no LOT adjustment is possible. Accordingly, we granted a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f).

#### 4. Cost of Production Analysis

Pursuant to the amendment of section 773(b)(2)(A)(ii) of the Act, Commerce required that respondents provide CV and cost of production (COP) information to determine if there were reasonable grounds to believe or suspect that sales of foreign like product had been made at prices that represented less than the COP of the product.

##### a. Calculation of the COP

In accordance with section 773(b)(3) of the Act, we calculated Electrolux's COP based on the sum of cost of materials and fabrication for the foreign like product, plus amounts for general and administrative and financial expenses.<sup>41</sup> We examined the cost data and determined that our quarterly cost methodology is not warranted. Therefore, we applied our standard methodology of calculating an annual weighted-average cost. Commerce relied on the COP data Electrolux submitted in its most recent cost database for the COP calculation. We made no changes to Electrolux's reported costs.

##### b. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the weighted-average COP to the third country sales prices of the foreign like product, in order to determine whether the sales prices were below the COPs within an extended period of time in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. For purposes of this comparison, we used COPs exclusive of selling and packing expenses. The prices were exclusive of any applicable discounts and rebates, movement charges, actual direct and indirect selling expenses, and packing expenses.

##### c. Results of the COP Test

In determining whether to disregard comparison market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: (1) within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's comparison market sales of a given product are at prices less than the COP, we disregard none of the below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: (1) the sales were made

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<sup>41</sup> See the "Test of Comparison Market Sales Prices" section for treatment of comparison market selling expenses.

within an extended period of time in “substantial quantities,” in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that, for certain specific products, more than 20 percent of Electrolux’s comparison market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

For those U.S. sales of subject merchandise for which there were no comparable third country sales in the ordinary course of trade, we compared CEP to CV in accordance with section 773(a)(4) of the Act.

#### 5. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV for Electrolux based on delivered or ex-factory prices to unaffiliated customers in Canada. We made deductions to the starting price, where appropriate, for billing adjustments, early payment discounts, other discounts, and rebates, in accordance with 19 CFR 351.401(c). Electrolux reported negative rebate amounts for certain third country sales. Therefore, we set all reported negative rebate amounts to zero.<sup>42</sup>

We also made deductions for movement expenses, including foreign inland freight expenses (offset by freight revenue), foreign warehousing expenses, foreign customs expenses, inland insurance expenses, and foreign brokerage and handling expenses, in accordance with section 773(a)(6)(B)(ii) of the Act. We capped freight revenue by the amount of inland freight to the customer incurred on Canadian sales, in accordance with our practice.<sup>43</sup> Moreover, we made deductions for direct selling expenses (*i.e.*, imputed credit expenses, direct warranty expenses, and advertising expenses), in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses incurred on the Canadian market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

We added U.S. packing costs and deducted third country packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act. When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also adjusted for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.<sup>44</sup>

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<sup>42</sup> See Electrolux Preliminary Analysis Memorandum.

<sup>43</sup> See, *e.g.*, *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination*, 77 FR 63291 (October 16, 2012), and accompanying IDM at Comment 6.

<sup>44</sup> See 19 CFR 351.411(b).

6. Calculation of Normal Value Based on Constructed Value

For Electrolux, where we were unable to find a comparison market match of identical or similar merchandise, we based normal value on CV in accordance with section 773(a)(4) of the Act. Where appropriate, we adjusted CV in accordance with section 773(a)(8) of the Act.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Electrolux's material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the COP component of CV as described above in the "Calculation of Cost of Production" section of this memorandum. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by Electrolux in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market.

We made adjustments to CV for differences in circumstances of sale, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses incurred on the Canadian market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

**F. Currency Conversion**

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

**V. RECOMMENDATION**

We recommend applying the above methodology for these preliminary results.

Agree

Disagree

2/20/2020

X



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Signed by: JEFFREY KESSLER  
Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance