Department's regulation at section 353.38(a) which states that ''[T]he Secretary will return to the submitter * * * any written argument submitted after the time limits specified in this section or by the Secretary.'' The petitioner further contends that to do otherwise not only works to the prejudice of the petitioner, which operated under the established time frames, but provides license for Camesa, and parties to other proceedings before the Department, to flout the Department's mandatory requirements. The petitioner further argues that, at the least, the Department must reject Camesa's claim for confidentiality regarding its case brief since it failed to perfect this claim by filing a public version of the case brief by the close of the next business day. Camesa did not comment on this issue.

DOC Position

Camesa attempted to file its business proprietary version of its case brief on May 7, 1998. Details of Camesa's attempt to file its case brief in a timely manner are outlined in Sherman & Sterling's letter to the Honorable William Daley dated May 8, 1998 and accompanying affidavit of its courier. The Department accepted Camesa's explanation and effectively gave Camesa an extension of one day by accepting its case brief on May 8, 1998. *See* 353.38(c)(1). Therefore, the public version of Camesa's case brief was due on the next business day, which in this case was on May 11, 1998. *See* 353.32(b). Camesa timely filed its public version on May 11, 1998.

Final Results of the Review

As a result of our review of the comments, we determine that the following dumping margins exist:

Manufacturer/exporter	Period	Margin (percent)
Aceros Camesa, S.A. de C.V.	3/1/96–2/28/97	0.00

The Department shall determine, and the Customs service shall assess, antidumping duties on all appropriate entries. We will instruct customs to liquidate the entries made during the POR without regard to antidumping duties since no margins were determined to exist in this review. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Further, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of steel wire rope from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rate for Camesa will be the rate stated above; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original investigation of sale at less than fair value (LTFV), but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 111.68 percent, the all others rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely 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.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), section 771(i) of the Act (19 U.S.C. 1677f(i)), and 19 CFR 353.22.

Dated: August 27, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–23670 Filed 9–1–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–008]

Color Television Receivers From the Republic of Korea; Final Results of Changed Circumstances Antidumping Duty Review

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

ACTION: Notice of affirmative final determination of changed circumstances antidumping duty review and revocation of order in part.

SUMMARY: This changed circumstances review covers one manufacturer, Samsung Electronics Corporation. The International Brotherhood of Electrical Workers; the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers (AFL–CIO); and the Industrial Union Department (AFL–CIO) are collectively the ''petitioners.''

On December 31, 1997, the Department of Commerce published the preliminary results of the changed circumstances review of the antidumping duty order on color television receivers from the Republic of Korea. At that time, the Department preliminarily determined to partially revoke this antidumping duty order with respect to Samsung Electronics Corporation. Based on our analysis of the record evidence, including interested party comments, we have determined that changed circumstances warrant revocation of the antidumping duty order on color television receivers from the Republic of Korea, as it applies to Samsung Electronics Corporation.

EFFECTIVE DATE: September 2, 1998.

FOR FURTHER INFORMATION CONTACT: Irene Darzenta Tzafolias or Mark Manning, Office of AD/CVD Enforcement, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0922 and 482–3936, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR Part 353 (April 1, 1997). Although the new regulations do not apply in these final results, they are cited, where appropriate, as a statement of the Department's current practice. *See* 62 FR 27296, 27378 (May 19, 1997).

Background

On April 30, 1984, the Department of Commerce (the Department) published in the **Federal Register** (49 FR 18336) the antidumping duty order on color television receivers (CTVs) from the Republic of Korea (Korea).

On July 20, 1995, the Department received a request by Samsung Electronics Corporation (Samsung) for a changed circumstances review to consider revocation of the antidumping duty order, as it applies to Samsung. The petitioners opposed this request. In its revocation request, Samsung cited three reasons why the Department should revoke the antidumping duty order. First, the timing of certain court decisions on previous administrative reviews of this order prevented Samsung from filing in a timely manner for revocation under Section 751(a) of the Act. Second, Samsung was found not to be dumping CTVs in the United States during the six consecutive years in which Samsung had shipments from Korea. Third, Samsung has not shipped CTVs to the United States since early 1991. Zenith Electronics Corporation, a domestic interested party, and petitioners, filed objections to Samsung's request on August 4 and August 11, 1995, respectively.

Pursuant to Samsung's request, the Department initiated this changed circumstances review on June 24, 1996. *See Color Television Receivers From the Republic of Korea: Initiation of Changed Circumstances Antidumping Duty Administrative Review and Consideration of Revocation of Order (in Part)* (61 FR 32426, June 24, 1996).[1] On July 16, 1996, the Department issued to the parties a draft changed circumstances questionnaire for comment. We received comments from petitioners and Samsung on July 30, 1996, and August 6, 1996, respectively. On December 6, 1996, the Department issued a changed circumstances questionnaire to Samsung, who filed its response on February 24, 1997. Petitioners submitted their comments on Samsung's questionnaire response on June 17, 1997. Subsequently, both petitioners and Samsung submitted several additional comments.

On December 31, 1997, the Department issued its affirmative preliminary results in this changed circumstances review of the antidumping order on CTVs from Korea, partially revoking this order with respect to Samsung. *See Color Television Receivers From Korea; Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review* (62 FR 68256, December 31, 1997). Petitioners, Samsung, and LG Electronics (LGE) submitted comments to the Department concerning the preliminary determination on February 13, 1998 and March 6, 1998. A public hearing was held on March 18, 1998, to allow interested parties the opportunity to express their views directly to the Department. Additional information was submitted on March 30, 1998, and comments were filed by petitioners and Samsung on April 7, 1998, and May 8, 1998, respectively. This review was conducted in accordance with Section 751(b) of the Act.

Scope of Order

Imports covered by this order include CTVs, complete and incomplete, from the Republic of Korea. This merchandise is classifiable under the 1997 Harmonized Tariff Schedule (HTS) as item 8528.12.04, 8528.12.08, 8528.12.12, 8528.12.16, 8528.12.20, 8528.12.24, 8528.12.28, 8528.12.32, 8528.12.36, 8528.12.40, 8528.12.44, 8528.12.48, 8528.12.52, 8528.12.56, 8528.12.62, 8528.12.64, 8528.12.68, 8528.12.72, 8528.12.76, 8528.12.80, 8528.12.84, and 8528.12.88. The order covers all CTVs regardless of HTS classification. The HTS subheadings are provided for convenience and for customs purposes. The Department's written description of the scope of the order remains dispositive.

Scope of the Review

Imports covered by this review pertain to merchandise as defined by the ''Scope of the Order'' section above that was produced by Samsung.

Intent to Revoke In Part

Section 751(d) of the Act provides that the Department may revoke an antidumping order, in whole or in part, after conducting a review under Section 751(a) or 751(b). 19 U.S.C. 1675(d)(1) (1995). This changed circumstances review is being conducted pursuant to Section 751(b) of the Act. The Department's regulations at 19 CFR 353.25(d) permit the Department to conduct a changed circumstances review under 19 CFR 353.22(f) when there is sufficient information to warrant a review. We stated in the initiation notice that the unique circumstances presented by Samsung in this proceeding constitute changed circumstances sufficient to warrant a review under Section 751(b) of the Act and 19 CFR 353.22(f).

Although this review is being conducted pursuant to Sections 353.25(d) and 353.22(f) of the Department's regulations, for guidance we have relied upon the criteria contained in Section 353.25(a) as a starting point from which to analyze the case, in addition to any other factors raised by the parties. Section 353.25(a) states that the Secretary may revoke an order in part if the Secretary concludes that (1) a manufacturer or reseller covered at the time of revocation by the order has sold the subject merchandise at not less than foreign market value (LTFMV) for a period of at least three consecutive years, (2) it is not likely that those persons will in the future sell the merchandise at LTFMV, and (3) the manufacturer or reseller agrees in writing to the immediate reinstatement of the order if the Secretary concludes that the manufacturer or reseller, subsequent to the revocation, sold the merchandise at LTFMV. In the preliminary determination, the Department found that Samsung met all three of the above requirements. At that time, we encouraged interested parties to submit comments concerning whether Samsung was not likely to sell the subject merchandise at LTFMV in the future.

[1] In a separate but related proceeding, the Department investigated whether Samsung and other Korean television producers were circumventing the antidumping duty order on CTVs from Korea through their production facilities in Mexico. Pursuant to an application filed by petitioners on August 11, 1995, the Department initiated the anti-circumvention inquiry on January 19, 1996 (61 FR 1339, January 19, 1996). On December 31, 1997, pursuant to petitioners' request, the Department terminated the anti-circumvention inquiry with respect to all companies.

With respect to the issue of likelihood, in past cases, we have considered ''such other factors as conditions and trends in the domestic and home market industries, currency movements, and the ability of the foreign entity to compete in the U.S. marketplace without LTFV sales.'' *See Brass Sheet and Strip from Germany; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part* (61 FR 49727, 49730; September 23, 1996) (Brass Sheet and Strip) and *Notice of Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke Order In Part: Dynamic Random Access Memory Semiconductors of One Megabyte or Above From the Republic of Korea* (62 FR 39809, 39810; July 24, 1997) (DRAMS). Other criteria the Department has considered in past cases include the existence of trade restrictions on the sale of the foreign like product in third world countries and the industry's development of new technologies in its analysis of the likelihood of future dumping. *See, e.g., Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke in Part* (54 FR 35517, 35519; August 28, 1989) (TVs from Japan). As stated in TVs from Japan, the market forces described above are important in cases, such as this one, where there have been no shipments of subject merchandise for several years, and there is therefore little information regarding a respondent's current pricing practices with regard to the subject merchandise. *See* TVs from Japan at 35519.

Based upon our analysis of the information on the record of this case, Samsung has not sold the subject merchandise at LTFMV for a period of six consecutive years (*i.e.*, April 1, 1985 through March 31, 1991). We consider this to be an important indicator of Samsung's expected pricing practices in the future. In addition, Samsung has agreed in writing to its immediate reinstatement in the order if the Secretary concludes that Samsung, subsequent to the revocation, sells the merchandise at LTFMV.

With respect to whether Samsung is not likely to resume dumping, we have examined the information submitted after issuing the preliminary results. We continue to find that the record supports the conclusion that Samsung is not likely to sell the subject merchandise at LTFMV in the future. As more fully explained below, our analysis of whether Samsung is not likely to resume selling CTVs in the U.S. market at LTFMV focuses on conditions and trends in the U.S. and Korean CTV markets, the effects of the Asian economic downturn on Samsung, the movements of the Korean won and other Southeast Asian currencies, Samsung's ability to compete in the United States without LTFMV sales, trade restrictions concerning CTVs in third countries, and the potential impact of new technologies, specifically high definition television.

Analysis of Comments Received

Part I—General Comments

Comment 1: Legal Entitlement to a Changed Circumstances Review

Petitioners claim that Samsung missed the opportunity to request revocation under 19 CFR 353.25(b) and is therefore ineligible for revocation pursuant to a changed circumstances review under Section 751(b) of the Act and Section 353.25(d) of the Department's regulations. Petitioners argue that the statute and the regulations provide two methods to request revocation. Pursuant to Section 751(a) and 19 CFR 353.25(a)–(c), the Department may consider a respondent's request for revocation if the respondent has made sales at LTFMV for three consecutive years in the immediately preceding review periods. The Department also will consider a request for revocation pursuant to Section 751(b) and 19 CFR 353.22(f) and 353.25(d) based on other ''changed circumstances.''

Petitioners claim that, in this case, Samsung had the opportunity to request revocation pursuant to Section 751(a) and 19 CFR 353.25(a)–(c), but failed to make such a request in a timely manner. Specifically, petitioners argue that Samsung should have requested revocation in April 1991 for the eighth review, by which time the Department had already published its final results in the fourth and fifth reviews and had determined that Samsung's dumping margins were *de minimis*. Furthermore, despite the outcome of litigation in the fourth review, the Department announced in the final results of the fifth review, published in March 1991, that it did not agree with the Court of International Trade's decision in *Daewoo Electronics Co.* v. *United States*, 13 CIT 253, 712 F. Supp. 931 (1989) (*Daewoo*), and was consequently calculating its margins for Samsung pursuant to its standard practice. Based upon the Department's standard commodity tax methodology, Samsung was able to obtain *de minimis* margins in the fourth and fifth reviews. Since the final results of these reviews were known to Samsung in March 1991, coupled with the Department's announcement that it did not intend to follow the lower court's decision in *Daewoo*, petitioners argue that Samsung clearly had the basis to certify that it would have no sales at LTFMV in the eighth review. According to petitioners, Samsung should have requested revocation in April 1991, but it failed to do so.

Petitioners also argue that although the final results of the sixth and seventh reviews were not published by the Department until 1996, this should not have prevented Samsung from requesting revocation in April 1991 for the eighth review. If Samsung had done so, petitioners argue, the Department would have known in April 1991 that the results of the sixth and seventh reviews could have an impact on whether Samsung would be allowed to obtain revocation in the eighth review. Presumably, the petitioners reason, the Department could have changed its administrative process and conducted the sixth, seventh, and eighth reviews simultaneously to determine whether Samsung had three consecutive years of no dumping.

Petitioners claim that because Samsung missed its opportunity to request revocation pursuant to Section 751(a) and 19 CFR 353.25(a)–(c), it is not eligible for revocation through a changed circumstances review pursuant to Section 751(b) and 19 CFR 353.22(f) and 353.25(d). Petitioners claim that, in the past, the Department has conducted changed circumstances reviews only in cases where domestic parties had no interest in maintaining the order, or where the request for revocation was otherwise warranted but could not be obtained through the normal revocation procedure. In this case, petitioners contend that Samsung is prohibited from requesting revocation through a changed circumstances review because it failed to request such a review through the normal regulatory procedures (*i.e.*, 19 CFR 353.25(a)–(c)). Moreover, petitioners assert that Samsung is requesting a changed circumstances review on the basis of the discontinuance of dumping and cessation of shipments, something that the Department has never done before. Petitioners contend that Samsung is specifically trying to avoid the mandate of the law by improperly relying on this alternative method for revocation. Petitioners assert that the Department's regulations were revised to prohibit revocation based on no shipments in recent time periods because the Department recognized that the absence of shipments by a respondent, even after

an initial period of no dumping, was not a reliable indication that the respondent was not likely to dump in the future.

Lastly, petitioners argue that a negative determination in this changed circumstances review is consistent with the World Trade Organization's (WTO's) Antidumping Agreement. Petitioners claim that Article 11 of the Antidumping Agreement provides only basic guidelines concerning the duration and review of antidumping duties. Beyond outlining broad principles, Article 11 is silent as to any factors or considerations that should be taken into account by member countries' authorities during a review of the need to maintain antidumping duties. Therefore, petitioners contend that the Antidumping Agreement gives to each member country's authorities the responsibility and discretion to establish specific rules for the authorities to evaluate the issue of revocation. In this capacity, the Department has promulgated regulations at 19 CFR 353.25(a)–(c) that set forth the criteria respondents must meet to obtain revocation. Petitioners conclude that the Department's decision to withhold revocation under its applicable regulations is in compliance with Article 11.

Samsung claims that the Department's revocation regulations failed to operate as intended with respect to Samsung because of the timing of certain court decisions and the systematic failure of the Department to comply with its regulatory obligation to complete administrative reviews within 365 days. Specifically, Samsung cites the following six reasons: (1) the Department improperly determined in 1988 that Samsung had an above *de minimis* margin in the third review; (2) the margin in the third review was not reduced to *de minimis* until 1995; (3) the Department amended its revocation regulations in April 1989 to require that producers file revocation requests only in the anniversary month immediately following three consecutive years of no sales at LTFMV; (4) the Department did not issue its final determinations in the fourth and fifth reviews until June 1990 and March 1991, respectively—in each case, two years after the 365-day deadline for completion; (5) the Court of Appeals for the Federal Circuit issued a decision that resulted in *de minimis* margins in the third through eighth reviews; and (6) the Department did not issue final results for the sixth and seventh reviews until February 1996, six and five years late, respectively. As a result, Samsung learned for the first time that it had become eligible to request revocation under the new regulations long after April 1989, the ''opportunity month'' for requesting such a review, had passed. However, Samsung states that it does not seek revocation on the basis that its revocation requests under the new regulations were timely. Rather, certain facts relied on in those requests are relevant changed circumstances.

Samsung also argues that under Article 11 of the WTO Antidumping Agreement, the Department ''shall review the need for the continued imposition of the duty, where warranted, . . . upon request by any interested party which submits positive information substantiating the need for a review.'' Samsung asserts that this provision contains no time limit in which parties must request a review and establishes no procedural bars to prevent parties from obtaining a review. Furthermore, Article 11 states that ''an antidumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury.'' According to Samsung, under Article 11, the Department is obligated to revoke an order when ''dumping which is causing injury'' no longer occurs. Given that Samsung has received *de minimis* margins for a period of six years and has discontinued shipments since 1991, Samsung maintains that the Department must, pursuant to Article 11, revoke the order with respect to Samsung.

Samsung further argues that the House Report on the URAA explains that ''the changes are made to conform United States law more specifically to the provisions of the Agreement.'' Samsung contends that the House Report indicates that Congress recognized that the Department must comply with the WTO Antidumping Agreement's provisions governing revocation. Therefore, Samsung asserts that the Department's changed circumstances review provision authorizes it to conduct revocation reviews where warranted and to revoke orders that are no longer necessary, and does not limit the Department to examining only those situations in which the domestic industry is no longer interested in an order.

Department's Position: We disagree with petitioners' claim that, because Samsung missed the opportunity to request revocation under 19 CFR 353.25(b), it is therefore ineligible for revocation pursuant to a changed circumstances review under Section 751(b) of the Act and § 353.25(d) of the Department's regulations. A review based upon changed circumstances, as provided under § 353.25(d) of the regulations, is a separate and distinct procedure from that of a revocation review provided for under §§ 353.25(a)–(c). In the Department's view, the failure to meet a procedural requirement for a review under §§ 353.25(a)–(c) cannot act as a bar to a changed circumstances review where a company satisfies the requirements for such a review. Thus, if the facts demonstrate that changed circumstances exist sufficient to warrant a review, the Department has authority, under the statute and regulations, to conduct such a review (*see* Section 751(b) of the Act and 19 CFR 353.22(f)(1)). In this case, the facts clearly demonstrate that there were changed circumstances sufficient to warrant a changed circumstances review. As noted in the *Notice of Initiation,* these changed circumstances are (1) the decision of the Court of Appeals for the Federal Circuit in *Daewoo Electronics Col, Ltd., et al.* v. *United States,* 6 F.3d 1511 (Fed. Cir. 1993), cert. denied, 114 S. Ct. 2672 (1994), which Samsung claims made it possible for the first time for it to contemplate the possibility of *de minimis* margins for three or more consecutive review periods; (2) as a direct result of that decision, Samsung was able to establish that it had not been dumping CTVs in the United States for six consecutive years; and (3) Samsung has not shipped CTVs to the U.S. since 1991.

Furthermore, petitioners have misunderstood the intended purpose of the procedural requirement that a respondent seeking revocation submit a *timely* request for revocation under § 353.25(b). The requirement of a timely filed request is not meant to bar consideration of a company-specific revocation for respondent. Rather, the purpose of the regulatory requirement is to ensure that the Department has adequate time to address the issues of revocation, to prepare for and conduct a proper verification as required under § 353.25(c)(2)(ii), and to ensure that all parties to the proceeding are provided with an opportunity to comment on the issues of revocation. Thus, the Department's decision to grant a changed circumstances review does not frustrate the purpose of the antidumping law or prejudice the parties to the proceeding. To the contrary, it is a reasonable exercise of the Department's authority, consistent with Section 751(b) of the Act and the Department's regulations.

We also disagree with petitioners' contention that revocation is not warranted because the Department's regulations prohibit revocation based upon no shipments. First, we have based revocation upon Samsung's six

consecutive years of zero or *de minimis* margins and a determination that resumption of dumping by Samsung is not likely, not the absence of shipments.[2] Furthermore, in amending its regulations on revocation, the Department stated that, in determining whether an order should be revoked under a changed circumstances review, the Department ''may consider among other things periods of no shipments.'' *Antidumping Duties, Final Rule*, 54 FR 12742, 12758 (Mar. 28, 1989). Thus, Samsung's lack of CTV shipments from Korea to the United States does not prohibit the Department from revoking the order as to Samsung. To the contrary, that fact may be taken into consideration.

Comment 2: Revocation Of The Order In Full

LGE, a Korean producer of the subject merchandise and an interested third party, argues that four significant changed circumstances exist since the imposition of the Korean CTV order nearly 14 years ago that warrant the revocation in full of the antidumping duty order on CTVs from Korea. First, LGE claims that there have been no commercially significant imports of CTVs from Korea since approximately 1989, despite zero or very low cash deposit rates for all major Korean exporters during this period. Therefore, LGE contends that the antidumping duty order offers no legitimate commercial benefit to the United States industry. Second, LGE states that the Department's administrative reviews established a pattern of sustained reduction, and ultimately virtual elimination, of the dumping margins found by the Department in its margin calculations for all Korean producers. Third, LGE asserts that Mexico has supplanted Korea and other Asian nations as the dominant supplier of CTVs to the U.S. market because many Korean, Japanese, and American CTV companies have shifted their production facilities that serve the U.S. market to Mexico. Fourth, due to the emergence of Mexico as the leading supplier of CTVs sold in the U.S. market, LGE doubts whether there continues to exist an industry engaged in the manufacture of CTVs—as distinct from color picture tubes (CPTs) and other components—in the United States.

Petitioners contend that, apart from the fact that LGE is unable to satisfy the basic requirements of the regulations and that LGE has been found to be dumping above *de minimis* levels during one of the last periods for which a review was conducted, LGE's comments fail on several grounds. First, LGE has not participated in this review except tangentially. Second, LGE has not addressed the significant changes caused by the recent economic downturn facing Korea which would cause it, like Samsung, to export its excess production capacity at LTFMV to obtain foreign exchange to service its debt. Third, petitioners contend that LGE, like Samsung, has not demonstrated that it is not likely to resume dumping, and therefore revocation must be denied.

Department's Position: In this case the Department initiated a changed circumstances review solely with respect to Samsung based upon specific facts demonstrating changed circumstances sufficient to warrant a review as to Samsung. Accordingly, this changed circumstances administrative review was not conducted with respect to any other company. Thus, the Department's determination in this review pertains exclusively to Samsung.

Part II—Likelihood Comments

Comment 3: Conditions And Trends In The United States Market

Petitioners argue that Samsung is likely to resume dumping CTVs in the U.S. market because U.S. CTV prices are steadily declining and will fall below foreign market value in the near future. Petitioners state that Samsung's weighted-average price data indicates that, for almost all screen sizes, particularly the large sizes, Samsung's U.S. prices have steadily decreased. More broadly, petitioners note that, although Samsung's prices fell in both the U.S. and Korean markets from 1991 through 1997, its U.S. prices fell approximately twice as fast as those in Korea. In addition, petitioners claim that the data Samsung obtained from the Electronics Industries Association (EIA), which lists the overall U.S. market sales volumes and average unit prices from 1954 through 1998 (projected), demonstrate significant, and continuing, price declines. Petitioners also claim that the price decline in the U.S. market will accelerate as Southeast Asian CTV producers respond to their need for increased revenue, precipitated by the Asian economic situation, by flooding the U.S. market with significantly discounted CTVs. Petitioners conclude that, as a result of declining U.S. prices, amplified by competition among cheap Southeast Asian imports, Samsung will be forced to lower its U.S. prices below foreign market value and resume dumping.

Petitioners also claim that the changing pattern of demand in the U.S. market makes Samsung likely to resume dumping CTVs, especially in the large (25- and 27-inch) and very large (31-inch and greater) product segments. In support of their argument, petitioners provide their estimates, by screen size, of demand in the U.S. CTV market from 1996 through the year 2000. Based on these estimates, petitioners contend that the U.S. market will exhibit growth in the large and very large product segments, while decreasing in the small (13-inch and less) and medium (19- and 20-inch) product segments.

In light of these data, petitioners argue that Samsung is currently adjusting its domestic production to reflect the shift in United States demand toward large and very large CTVs. As evidence of Samsung's shifting production pattern, petitioners provide their estimate of Samsung's Korean CPT production capacity, on a screen size basis, through the year 2000. According to petitioners, examination of these estimates indicates that Samsung is increasing its Korean production of large and very large-sized CPTs, while cutting back its Korean production of small and medium-sized CPTs. This point is especially relevant, state petitioners, because Samsung's CPT plant in Mexico can only produce medium-sized CPTs. Thus, Samsung could reserve its Mexican operations for production of medium-sized CTVs, which is the segment of the U.S. market petitioners claim is showing considerable decline, while exporting small and large CTV sizes directly to the United States from Korea.

Samsung characterizes the U.S. CTV market as stable and non-cyclical. As evidence, Samsung relies on the data it obtained from the EIA, which indicates that sales volumes in the U.S. CTV market, measured in units, have been steady throughout the 1990's, and that average unit prices have shown only slight erosion since 1993. Samsung also claims that this stability is mirrored in its own U.S. market prices for its Mexican-made CTVs.

Samsung responds to petitioners' allegation that it is adjusting its Korean production to reflect the growth in U.S. market demand for large and very large CTVs by making three points. First, Samsung states that during the eight administrative reviews in which it

[2] In 1991, Samsung ceased, and has not resumed, shipping CTVs from Korea to the United States. *See Color Television Receivers From the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 59 FR 13700 (Mar. 23, 1994); *Color Television Receivers From the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 60 FR 38987 (July 31, 1995); and *Color Television Receivers From the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 61 FR 59402 (Nov. 22, 1996).

shipped CTVs to the United States from Korea, it never exported CTVs with screen sizes of 25 inches or more. Thus, Samsung states there is no basis on which to conclude that it would resume dumping large screen size CTVs since it never dumped them in the first place. Second, Samsung claims it has no need to ship large screen size CTVs from Korea to the United States because it can fully serve the large screen size market segment through its Mexican operations. Samsung notes that the Department verified in the now terminated anti-circumvention proceeding that all four of its production lines in Mexico can produce CTVs with screen sizes ranging from 25 to 31 inches. Third, Samsung asserts that its Korean CPT facilities cannot produce conventional CPTs (4:3 width-to-height ratio) for certain large screen sizes. For these reasons, Samsung concludes that it is not adjusting its Korean production operations to service better the U.S. market.

Department's Position: We disagree with petitioners' claim that Samsung is likely to resume dumping in the U.S. CTV market because, according to petitioners, U.S. prices are steadily declining and will fall below foreign market value in the near future. The U.S. CTV industry is a non-cyclical, mature industry historically characterized by modestly declining prices. Although declining U.S. prices and a competitive U.S. market were factors in rejecting requests for revocation in certain past cases, the evidence on the record of this case concerning U.S. market conditions is significantly different from that in past cases and does not support a similar conclusion.

For example, in DRAMS, the Department noted that the global DRAM industry is highly cyclical in nature with periods of sharp upturn and downturn in market prices. In the year prior to the July 1997 final results of administrative review, the world market experienced a year-long downturn, resulting in depressed prices and increased DRAM supply, from which it had not fully recovered by the time of the final results. We concluded that, due to price fluctuations, there was a large degree of uncertainty about the market's future direction. *See* DRAMS at 39816 and 39817. As discussed more fully below, the CTV industry is not characterized by the large cyclical swings found in the DRAMS industry and, therefore, does not experience periods of significantly depressed prices. *See* Samsung's February 13, 1998, submission at Exhibit H.

In another case, *TVs from Japan*, we found that prices in the U.S. television market had declined steadily during the six-year period immediately preceding the 1989 final determination not to revoke the order, imported televisions from countries other than Japan (many sold at LTFMV) had increased as a percentage of U.S. consumption, and that the competitive pricing pressures in the United States had become stronger with the emergence of Taiwan and Korea as significant television producers and exporters. We also noted in *TVs from Japan* that these market factors are important where there have been no shipments for many years, therefore limiting (Japanese) respondents' U.S. pricing information. *See TVs from Japan* at 35519.

However, *TVs from Japan* is substantially different from the current review because, in this case, we have evidence of how Samsung would price (compete) in a U.S. market characterized by significant dumped imports (*i.e.*, Samsung's pricing behavior in the U.S. market during the 1980s when it competed against dumped television receivers from Taiwan, Japan, and other Korean producers). When making our determination in *TVs from Japan* we did not have evidence indicating how the Japanese respondents requesting revocation (Sanyo and Hitachi) would compete in a U.S. market characterized by significant dumping, because they had stopped shipping before the orders on television receivers from Taiwan and Korea were issued. *See* Analysis Memorandum dated August 25, 1998. Therefore, even if Samsung were to resume shipments and compete against potentially dumped imports from Japan, Taiwan, and other Korean producers, the fact that Samsung received *de minimis* margins while competing against dumped imports during the period 1985 through 1991, supports a conclusion that Samsung is not likely to resume sales at LTFMV.

In a third case, *Brass Sheet and Strip*, we characterized the U.S. market for the subject merchandise as being mature, known for its price competitiveness, and a ''desirable market for foreign exporters, by virtue of its large size relative to other markets.'' *See Brass Sheet and Strip* at 49731. However, the Department's decision to reject the respondent's request for revocation was based on other significant factors, such as the respondent's under-utilized home market capacity, the severe decrease in shipments of subject merchandise to the United States since the imposition of the order, the appreciating home market currency, and the existence of a U.S. processing plant that required subject merchandise as feedstock. Unlike in *Brass Sheet and Strip*, the current review is not characterized by the combination of factors which support a conclusion that the respondent is likely to resume sales at LTFMV.

Samsung provided data it obtained from the EIA listing the total quantity, value, and the percentage of household penetration of sales in the U.S. CTV market from 1954 to 1998 (projected). *See* Samsung's February 13, 1998, submission at Exhibit H. Close examination of these data indicates that from 1980 through 1998, the annual average unit price for the U.S. CTV market has decreased, except for a period of five consecutive years, from 1989 to 1993, when prices increased. Specifically, these data indicate that CTV prices, as measured by the average annual rate of change, declined at a rate of 2.79 percent from 1980 to 1988, increased at a rate of 1.71 percent from 1989 to 1993, and decreased at a rate of 2.61 percent from 1994 through 1998. In addition, the EIA data shows that CTVs have held a household penetration of approximately 98 percent since 1993. The low rates of annual change in average unit prices, the fact that 12 of the last 18 years have been marked by modestly declining prices, and that the CTV market has had full household penetration since 1993, are consistent with the view that the U.S. CTV industry is a non-cyclical, mature industry.

Furthermore, we note that Samsung's own data supports our characterization of the U.S. CTV market. As noted above, Samsung placed on the record data concerning its prices of Mexican-produced CTVs sold in the U.S. market for the period 1991 through 1997. These data indicate that, as petitioners note, Samsung's prices in the U.S. market declined during this period.

Samsung received *de minimis* margins during the period April 1985 through March 1991. During the first four years, from 1985 to 1988, we note that the U.S. CTV industry experienced declining prices. Since the Department normally considers declining U.S. prices to be a factor that increases the likelihood of continued sales at LTFMV, we note that Samsung has demonstrated its ability to sell CTVs in the United States at fair value even in the face of these declining prices.

Furthermore, we disagree with petitioners' claim that Samsung is changing its Korean production to match what petitioners characterize as a shift in U.S. demand toward large and very large CTVs. Petitioners' basis for this argument is that, according to their estimates, Samsung is increasing its

production of large and very large CPTs, which will eventually have to be exported in the form of a completed CTV. As more fully discussed in *Comment 4* below, we conclude that a change in CPT production does not necessarily produce a corresponding change in CTV production. In addition, we note that Samsung's Korean CPT facilities cannot produce conventional CPTs for certain large screen sizes. More importantly, we agree with Samsung that its Mexican facilities fully serve the U.S. market with respect to CTVs ranging in screen size from 13 to 31 inches. We note that Samsung has an incentive to continue serving the U.S. market from Mexico, for all screen size CTVs because, among other things, such CTVs can receive duty-free treatment under the North American Free Trade Agreement (NAFTA), provided the merchandise meets the appropriate rules of origin, while CTVs from Korea are subject to import duties.

Lastly, petitioners have argued that the shift in U.S. demand toward large and very large CTVs, in combination with their estimate that Samsung is increasing Korean production of large and very large CPTs, is an incentive for Samsung to resume sales at LTFMV in the United States. As mentioned above, we disagree that an increase in large-size CPT production necessarily corresponds to an increase in large-size CTV production in Korea. Moreover, although we agree with petitioners that the large and very large CTV market segments are likely to continue to grow over time, while the smaller CTV segments are likely to shrink, it is not clear that this trend provides Samsung with any additional incentive to resume sales at LTFMV. It is not unreasonable to assume that, over the history of the CTV industry, demand has shifted toward larger screen sizes as each new, and larger, screen size was introduced as a result of technology advances. During its six-year period of *de minimis* margins in the 1980's, it is reasonable to assume that Samsung faced a similar shifting of demand toward screen sizes that were at that time the upper end of the CTV market, but was able to compete without LTFMV sales.

Comment 4: Home Market Conditions And Samsung's Korean Production Capacity

Petitioners argue that the Korean CTV market is in a depression and that prices are declining, although not as fast as in the U.S. market. Petitioners contend that this price decline and Korean demand decrease, coupled with Samsung's excess CTV capacity in Korea, will force Samsung to export its excess production to the United States at LTFMV.

Citing a newspaper article entitled ''1998 Home Electronics Product Forecast,'' which provides an overview of the state of the Korean consumer electronics industry and its prospects for 1998, petitioners state that in 1997, Korean demand for CTVs fell by 50,000 units, and, due to the economic slowdown triggered by the Asian economic situation, is expected to fall by another 5–10 percent in 1998. *See* petitioners' submission dated February 13, 1998, at Enclosure 10. Continuing their citation of the article, petitioners state that Korean CTV producers are expected to increase exports in order to sell production no longer being absorbed by the domestic market.

Petitioners also contend that Samsung has excess CTV capacity in Korea and that Samsung will dispose of this excess production by exporting it, most likely to the United States, at LTFMV. Petitioners state that Samsung and the other Korean producers expanded their capacity during the years preceding the Asian economic downswing. In order to calculate the aggregate Korean excess CTV capacity, petitioners subtract Korean CTV demand from Korean CPT capacity, for the years 1985 through 1996. Petitioners maintain that because the Korean market cannot absorb the excess CPT production, this excess must be exported as completed CTVs. Furthermore, petitioners state that the condition of excess CPT production over CTV demand in Korea will only increase as demand falls due to the Korean economy slowing as a result of the Asian economic situation. Korea's excess capacity, petitioners state, has contributed to a world-wide oversupply that has resulted in depressed CTV market conditions across the globe.

Petitioners contend that Samsung, in its position as one of the major Korean CTV producers and as a direct result of its history of expansion, helped create the current situation of excess capacity existing in the Korean CTV industry. Although Samsung's excess capacity contributed to the world-wide oversupply of CPTs, petitioners maintain that Samsung will not reduce its Korean CPT production in view of its dire need to raise hard currencies. On the contrary, petitioners claim, Samsung will postpone any domestic cuts in CPT production and, as newspaper articles have reported, increase its exports of CTVs to enhance revenue flow.

Petitioners also argue that Samsung's sales data concerning its CTV exports from Korea to third countries do not support its claim that it has no incentive to export Korean-produced CTVs to the United States. Although Samsung's data do indicate that exports to Russia, Iran and the United Arab Emirates increased substantially between 1995 and 1996, the data for the first half of 1997 indicate that, when annualized, Samsung's exports to these countries significantly declined. This trend in declining third country exports, petitioners claim, proves inaccurate Samsung's characterization of these markets as ''fast growing'' and further supports petitioners'' argument that Samsung has an incentive to export its excess CTV capacity to the United States.

Samsung disagrees with petitioners' argument that a decline in the Korean market's demand will lead to increased pressure to export CTVs to the United States. Samsung observes that the 50,000 unit decrease experienced in 1997, as referenced by petitioners, is an insignificant decrease considering that the Korean market exceeded 2.3 million units in that year. In regard to the 5–10 percent projected decline in 1998, Samsung notes that even if such a decline occurs, it will be offset by a concomitant decline in the market share of foreign CTV suppliers (currently about 7 percent) which will find it much more difficult to sell in Korea due to the devaluation of the won. Therefore, Samsung reasons, even if overall demand declines, Samsung can gain market share at the expense of more costly foreign CTVs, and not be faced with unsold inventory which would generate pressure to export. Moreover, Samsung states that even if it did face increased pressure to export CTVs due to a decline in domestic demand, there is no reason to assume such exports would go to the United States since Samsung's Korean facilities already serve other third countries with growing demand.

Samsung also asserts that petitioners use the phrase ''excess CPT capacity'' in a misleading manner, attempting to imply that Samsung, and the other Korean producers, have unutilized capacity which will force them to export CTVs. While Samsung does not contest that its Korean CPT production capacity exceeds its Korean CTV sales, it asserts that this larger CPT production exists because its Korean CPT production is export-oriented—*i.e.*, the CPTs not incorporated into CTVs sold in Korea are exported and sold to unrelated CTV producers in various third countries. Samsung claims that its Korean CPT production capacity is fully utilized and, as evidence, provides a chart listing its Korean CPT capacity, production, and utilization rates since 1993. Samsung explains that this chart

indicates that, by 1997, Samsung reduced its CPT capacity by a significant amount and experienced high utilization rates throughout the five-year period. Samsung explains that these utilization rates are the functional equivalent of full capacity, after accounting for yield loss and maintenance downtime. Based on the above reasons, Samsung concludes that petitioners' implication that it has substantial unused CPT capacity which would force it to export CTVs to the United States is incorrect.

Samsung also acknowledges that its Korean CTV production is larger than its domestic CTV sales. Samsung states that this is because its CTV production, as with its CPT production, is export-oriented. Specifically, Samsung states that its Korean CTV facilities produce CTVs for sale in Russia, the Middle East, and Africa. Samsung further states that its CTV facility is fully utilized due to its Korean sales and export sales to these third country markets. To support its claim, Samsung provides a chart listing its CTV capacity, production, and utilization rates from 1993 through 1997. Samsung explains that this chart indicates that its CTV facility operated at or in excess of full capacity during this period. Therefore, Samsung concludes that, assuming petitioners' theory was correct and it did have unused CPT capacity, Samsung does not have any excess CTV production capacity in Korea which could be used to absorb the alleged excess CPT capacity.

Samsung also provides 1996 data showing the total quantity of Korean-produced CTVs sold domestically and in third countries. Samsung asserts that these data show that its overall export strategy for Korea is well diversified and, specifically, that the markets in Russia, Iran, and the United Arab Emigrates are ''fast growing.'' Samsung concludes that even if there is a modest decline in Korean CTV demand, Samsung can offset that decline with exports to alternative third country markets. Samsung argues further that in *Steel Wire Rope From the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order,* 62 FR 17171, at 17174 (April 9, 1997) (*Steel Wire Rope 1997*) and *Frozen Concentrated Orange Juice From Brazil; Final Results and Termination in Part of Antidumping Duty Administrative Review; Revocation in Part of the Antidumping Duty Order,* 56 FR 52510 (October 2, 1991), the Department considered a respondent's showing that it was not ''solely dependent on the United States for financial viability'' as an important factor in granting revocation.

Furthermore, Samsung states that if petitioners are correct in their theory that, when Samsung's Korean CPT production capacity exceeds its domestic CTV sales, it will be forced to increase its CTV exports to the United States, then this theory must equally apply to Samsung's Mexican operations. Citing the Department's 1997 verification report of Samsung's Mexican facilities, generated in the context of the now terminated anti-circumvention inquiry of CTVs from Korea, Samsung states that these documents clearly indicate that its CPT capacity in Mexico far exceeds its Mexican CTV capacity. Samsung asserts that, according to petitioners' theory, the larger Mexican CPT capacity should place substantial pressure on Samsung to export CTVs to the United States from Mexico, rather than from Korea. Petitioners, Samsung concludes, have ignored this implication of their theory.

Department's Position: Although we agree with petitioners that prices in the Korean CTV market have been falling and that the current economic slowdown may increase this trend, we cannot conclude that it is likely that Samsung will export its production normally absorbed by the Korean market, but now left unsold, to the United States at LTFMV.

According to Samsung's data, petitioners are correct that Samsung's annual, weighted-average market prices in Korea declined at a small rate over the 1991 through 1997 period (averaged across all screen sizes). *See* Analysis Memorandum dated August 25, 1998. However, this rate of price decline is much smaller than that exhibited in other cases where revocation was ultimately denied. *See, e.g.,* DRAMS at 39816 and 39817 and Brass Sheet and Strip at 49730. Furthermore, Samsung's Korean and U.S. market price data, in addition to overall U.S. market price data, indicate that the CTV industry, in both Korea and the United States, exhibits a trend of consistent, yet gradual, price declines. Unlike DRAMS, the CTV industry is a mature, non-cyclical industry. Thus, the steep price declines that occurred in other industries that contributed to the Department's decision not to grant revocation are not present in the CTV industry.

Petitioners' claim that the current economic situation will cause a decrease in demand and accelerate the decline in prices in the Korean CTV market. Assuming that a decrease in demand occurs, we note that Samsung has several options from which to choose in meeting a potential slow-down in home market CTV demand. For example, Samsung could reduce its CTV production, discount its Korean CTV prices to stimulate consumer spending, or export unsold CTVs to third country markets. In regard to petitioners' claim that unsold Korean CTV production is likely to be exported to the U.S. market and sold at LTFMV, we note that Samsung has provided evidence that its Korean CTV facilities serve viable third country markets other than the United States. Therefore, we do not find that a potential decline in Korean CTV demand supports a conclusion that Samsung is likely to resume sales at LTFMV in the U.S. market.

Petitioners also claim that Samsung has excess CTV capacity in Korea and that Samsung will dispose of this excess production by exporting it, most likely to the United States, at LTFMV. In past cases, we have examined a respondent's production capacity when considering revocation. For example, in Brass Sheet and Strip, the Department found that excess capacity existed in the home market ''because [the respondent's] level of new orders had been unsatisfactory.'' With ''capacity utilization in the home market under threat'' from decreased new orders and increased pressure from imports into the home market, combined with a plant in the United States that processed the subject merchandise, among other factors described above, we determined that the respondent had an incentive to resume sales in the United States at LTFMV. *See* Brass Sheet and Strip at 49731.

In the instant case, petitioners claim that Samsung has excess CTV capacity in Korea by subtracting Korean CTV demand from aggregate Korean CPT production capacity. We note that subtracting CTV demand from CPT production is not an appropriate method to calculate excess CTV capacity. Rather, examining the capacity utilization rate of CTV production facilities is a more meaningful measure. Furthermore, petitioners' methodology is not consistent with, or as accurate as the one used in Brass Sheet and Strip, where we examined directly the degree to which the respondent was utilizing its production capacity for subject merchandise. Even if it were, we note that petitioners applied this methodology on a Korea-wide basis, rather than specifically to Samsung. Furthermore, we learned in the terminated anti-circumvention inquiry that Samsung produces its CPTs through its subsidiary company, Samsung Display Devices-Mexicana, S.A., which sells its CPTs not only to Samsung's own CTV production facilities, but also

to unaffiliated CTV manufacturers. *See* memorandum to the file, dated August 12, 1998, that transmits the verification report of the November 20–21, 1997, verification of Samsung-Mexico to the record of this review. For this reason, Samsung's CPT production is not captive for Samsung's CTV production only. Thus, the one-to-one relationship between CPT production and CTV production capacity relied upon by petitioners distorts the analysis of whether Samsung has excess CTV production capacity. For this reason, we do not find petitioners' methodology to be an accurate or meaningful way of measuring unutilized capacity for Samsung. To the contrary, following petitioners' rationale, we find Samsung's claims with respect to the export orientation of its CPT production to be more reasonable.

We agree with Samsung that the proper method of determining whether it has excess CTV production capacity is to examine whether its current CTV production facilities are fully utilized. To this end, Samsung provided its production, capacity, and resulting utilization rates for its CPT and CTV facilities from 1993 through 1997 in Exhibits 20 and 21 of its March 6, 1998 submission. The utilization rates presented by Samsung are the functional equivalent of full capacity, after accounting for yield loss and maintenance downtime. In our view, excess capacity would exist if Samsung's current facilities were underutilized or if Samsung were building additional CTV production facilities during a time when there was no unmet demand, either domestically or abroad, that would absorb the additional output. In this case, Samsung has not announced, nor have petitioners alleged, that Samsung is currently building, or will build in the future, additional CTV production facilities in Korea. In fact, Samsung's utilization charts indicate that it significantly reduced both CPT and CTV capacity in 1997. Therefore, we find that Samsung's high utilization rates indicate that its does not have excess CTV production capacity at this time that, according to petitioners, would have to be exported and likely sold in the U.S. market at LTFMV.

Comment 5: The Effects of the Asian Economic Downturn on Samsung

Petitioners claim that the recent Asian economic slowdown has affected Samsung in three ways: (1) foreign creditors are requesting repayment of loans in hard currencies, rather than in the depreciated Korean won; (2) foreign lenders are reluctant to offer new loans to Samsung so that it can roll-over its current debt; and (3) the drastic depreciation of the won makes repayment of foreign debt in hard currencies very expensive. These effects, state petitioners, are especially relevant because Samsung is currently operating under a very heavy debt load as a result of financing both its Korean and global expansion throughout the 1980's and 1990's with foreign debt. This large amount of debt is illustrated by the Samsung Group's 1997 debt-to-equity ratio of 267 percent. Petitioners contend that the combination of this large amount of debt, coupled with the negative effects of the Asian economic situation, has forced Samsung to enter a ''debt-service mode'' and consequently maximize revenues, rather than profits, in order to make loan repayments and survive. To obtain the hard currency revenue it needs to survive, petitioners argue that Samsung will dramatically increase its exports of all its products from Korea to the United States, with CTVs leading the export drive.

Pursuant to its need to maximize hard currency revenue, petitioners state that Samsung will face enormous pressure to lower its prices, thereby increasing the quantity sold and enhancing revenues. Petitioners cite the economic theory concerning the behavior of firms in ''debt-service'' mode, which states that a firm seeking to maximize revenue, as opposed to profits, is required to lower prices below the total unit cost of production. As long as the producer's price exceeds the marginal cost of production, the firm will enhance cash flow even if the price is below the total unit cost. Petitioners state that this type of pricing behavior is especially relevant because the CTV industry is capital-intensive and characterized by high startup costs and high fixed costs. Thus, the marginal cost of an additional unit being produced is well below that unit's total cost. Because of Samsung's need to raise hard currency to pay off foreign debt, and its excess production capacity that the Korean CTV market cannot absorb, petitioners conclude that Samsung is likely to export Korean CTVs to the United States and to price them below foreign market value.

Samsung disagrees with petitioners' portrayal of its foreign debt situation, claiming that it has not defaulted on any loans and has no difficulty obtaining additional debt and equity financing in the international marketplace. As support for its assertions, Samsung provided documentation showing recent security offerings, renewals and an extension of credit, and a lease agreement.

In response to petitioners' argument that Samsung is likely to dump CTVs because it is heavily in debt and has a large debt-to-equity ratio, Samsung provided its fiscal year end debt-to-equity ratio from 1984 through 1997. Samsung points out that during the period 1985 through 1991, when it received *de minimis* margins on the CTVs it shipped directly from Korea to the United States, its debt-to-equity ratio exceeded the 1997 rate. Additionally, although Samsung ceased shipments to the United States in 1991, its debt-to-equity ratio in 1991 through 1993 was higher than its current ratio. Samsung claims that under petitioners' theory, it would have desperately needed to export CTVs from Korea to the United States from 1991 to at least 1993 because it was in a ''debt-service mode'' at that time. The fact that it did not, Samsung asserts, disproves petitioners' claims. Furthermore, Samsung makes the point that the 1997 debt-to-equity ratio cited by petitioners is lower than the 1996 ratios for Philips Electronics N.V. and Thompson-CSF, the parent companies of two U.S. CTV producers. Samsung doubts that petitioners would claim that these two companies were in a ''debt-service mode'' in 1996 which compelled them to adopt a strategy of exporting CTVs below the cost of production in order to maximize revenue and survive.

Lastly, Samsung states that even assuming it had to export goods from Korea to the United States in order to survive, petitioners never provide evidence as to why Samsung must export CTVs, rather than other products it manufacturers, to service its debt. Samsung claims that relying on revenue from U.S. CTV sales would be a poor strategy and could not play a significant role in servicing its debt because its CTV sales in the U.S. market account for a small portion of its overall corporate sales. As support for this claim, Samsung provides documentation showing that its total 1996 CTV sales in the United States by its Mexican subsidiary accounted for a very minor portion of its total 1996 corporate sales.

Department's Position: We disagree with petitioners' allegation that as a result of the Asian economic downturn and its debt burden, Samsung is currently in a ''debt-service mode'' and, in order to service its debt, is compelled to adopt a strategy of exporting CTVs below the cost of production, thereby maximizing hard currency revenue. Although Samsung may be facing a high debt burden in light of the current economic downturn, the lack of CTV shipments from Korea to the United States during the 1991 to 1993 period,

when Samsung's debt-equity-ratio was higher than the current level, does not support petitioners' contention that Samsung is likely to export Korean CTVs to the United States because of its current debt situation.

As an initial matter, we note that, of the numerous newspaper articles petitioners submitted to the record of this proceeding concerning the effects of the Asian economic downturn on Korean companies and the Korean economy in general, the majority of articles reported the statements and actions of the Samsung Group, while only a few discussed how the decline specifically affected Samsung, the company subject to this review, and described what actions the company is taking in light of the situation. Petitioners, through their reliance on articles reporting the response of the Samsung Group, have implied that the actions of the group are synonymous with the actions of individual companies within the group, such as Samsung. Given that the Samsung Group consists of approximately 80 individual companies (see petitioners' February 13, 1998 submission at Enclosure 20) producing a wide array of products and services, we find that in this case the actions of the group are of limited value in our analysis of whether Samsung is likely to resume dumping CTVs in the U.S. market.

Of the few newspaper articles submitted by petitioners that specifically discuss Samsung, all of them indicate that Samsung intends to increase its Korean exports of a variety of products. Although the most commonly mentioned products designated by Samsung to lead its export drive are kitchen and household appliances, semiconductors, and telecommunications equipment, two articles include large screen and digital CTVs on this list. These articles, however, do not state the destination of the increased CTV exports and fail to mention that Samsung's Korean CTV operations are historically export-oriented, serving markets in Africa, the Middle East, and the republics of the former Soviet Union. However, in our preliminary determination, we stated that the issue of central importance in the final results of this review is whether Samsung is likely to resume dumping in the absence of an antidumping duty order, assuming that shipments occur. Therefore, arguments that Samsung will resume shipments directly from Korea are not enough.

The foundation of petitioners' argument that Samsung is likely to resume dumping as a result of the Asian economic downswing is their assumption that Samsung is currently operating under an extraordinary amount of debt. According to petitioners, this debt load, in conjunction with the drastic depreciation of the won, has made it very difficult for Samsung to obtain new loans and service its current debt. As a result, petitioners contend that Samsung must maximize revenues in order to survive, and will do so by exporting CTVs at LTFMV to the United States.

In response, Samsung stated that it has not defaulted on any loans and provided evidence that demonstrates it is able to obtain additional debt and equity financing in the international marketplace. Moreover, Samsung has shown that its debt load, as measured by its debt-to-equity ratio, was actually much higher in previous periods than it is now. From 1985 through 1991, when it received *de minimi*s margins, Samsung had debt-to-equity ratios significantly higher than the 1997 ratio cited by petitioners. *See* Samsung's March 6, 1998 submission at 20. See also the August 25, 1998, Analysis Memorandum. Furthermore, from 1991 to 1993, which were the first three years in which Samsung had ceased CTV shipments to the United States, Samsung's ratio was even higher than the 1985 to 1991 period.

Thus, the facts of this case do not support petitioners' theory that Samsung's current level of debt would compel Samsung to resume shipments of CTVs from Korea to the United States at LTFMV. As Samsung correctly states, petitioners' theory implies that because Samsung was servicing substantial debt during the 1985 to 1993 period, it must have sold CTVs in the U.S. market at LTFMV, which it did not do. Since Samsung had significantly higher debt-to-equity ratios during periods in which it had *de minimis* margins or no shipments, we are not persuaded by petitioners' arguments.

Comment 6: Currency Movements

Petitioners argue that CTV producers in Malaysia, Singapore, Thailand, and Indonesia are competitively advantaged over Samsung because the currencies of these countries devalued to a greater extent than the won during the Asian economic decline. Moreover, petitioners claim that because CTV producers in these countries are also in a ''debt-service mode'' and have greater excess capacity than Samsung, they can be expected to flood the U.S. market with deeply discounted CTVs. In order to stay competitive and maximize revenue, petitioners maintain that Samsung will have to match the U.S. prices of its Southeast Asian competitors, which will quickly be reduced to dumping levels.

According to petitioners, the currencies of Malaysia, Singapore, Thailand, and Indonesia significantly depreciated against the U.S. dollar from the last half of 1997 through January 1998, as the Asian economic situation unfolded. Citing the exchange rates from this period, petitioners assert that the magnitude of the Southeast Asian devaluations often surpassed that of the Korean won. Moreover, petitioners observe, that since reaching its nadir on December 23, 1997, the won appreciated by 28 percent while the Malaysian ringgit, Thai baht, and Singapore dollar depreciated by 9 percent, 13 percent, and 3 percent, respectively. Petitioners claim that the won's recent appreciation *vis-a-vis* the other Southeast Asian currencies permits producers in these countries to discount their U.S. prices to a greater extent than Samsung. Petitioners state that the reduction in export value resulting from the depreciation of the won will not be enough to prevent Samsung from selling at LTFMV because it will have to drastically lower its U.S. prices to match the deeply discounted prices of its Asian competitors. Petitioners further state that, since Samsung's costs and prices are denominated in the relatively stronger won, and because some of Samsung's parts and components are not sourced locally in Korea, the same devaluation that provides a margin of safety in price comparisons correspondingly results in a rise in costs of production, which will increase the likelihood of sales at LTFMV in the United States.

Second, petitioners argue that the excess capacity of producers in Malaysia, Singapore, Thailand, and Indonesia, as measured by aggregate Southeast Asian CPT capacity minus aggregate Southeast Asian CTV demand, is greater than the combined excess capacity of the Korean producers. For this reason, petitioners assert that the Southeast Asian producers will dispose of their excess inventory by exporting it to the United States. Petitioners state that the ensuing rounds of competitive pricing among the imports will drive down the U.S. market price of CTV imports in all screen size categories, and that Samsung, in order to stay competitive, will be forced to match these prices, which will most likely be below normal value.

Third, petitioners state that the Southeast Asian suppliers, unlike Samsung and the other Korean CTV producers, are not currently subject to a U.S. antidumping duty order. Therefore, petitioners state, they are not

constrained to sell at normal value in the United States and are free to reduce their export prices to whatever level is necessary to dispose of their excess capacity. Petitioners also claim that Southeast Asian CTV producers, like Korean producers, are struggling under large debt burdens and are motivated to maximize revenue by increasing exports to the United States. Petitioners conclude that the fierce competition among increasing cheap Asian imports will force suppliers in the U.S. market to engage in rounds of head-to-head price reductions. According to petitioners, Samsung's need to maximize revenue will force it to participate in the price reductions, leading Samsung to sell CTVs at LTFMV.

In regard to currency movements, Samsung states that it received *de minimis* margins in the fourth through eighth administrative review periods (April 1986 through March 1991), which were periods when the Korean won appreciated against the dollar compared to the exchange rates prevailing in calendar year 1985.

Samsung responds to petitioners' allegation by stating that the CTV producers in Southeast Asia are primarily subsidiaries of foreign multinational companies that would not undermine their significant North American operations by shipping CTVs from their Southeast Asian facilities to the United States. Samsung provides a chart indicating that the producers in Malaysia, Indonesia, Thailand, Singapore, and the Philippines are subsidiaries of Japanese, Korean, and American CTV manufacturers. Samsung argues that the facilities within Southeast Asia primarily serve the Asian markets rather than the U.S. market, because the Asian plants are at a competitive disadvantage to plants in the United States and Mexico due to higher shipping and inventory costs, as well as the five percent U.S. import duty on CTVs. Samsung asserts that it makes no economic sense for these multinational producers to ship CTVs to the United States from Southeast Asia and thereby undercut their significant North American operations.

Furthermore, Samsung observes that U.S. import statistics for January through November 1997 indicate that approximately 90 percent of CTV exports from Southeast Asia to the U.S. market were of the small and medium screen sizes. *See* petitioners' February 13, 1998 submission at 39 for the above-referenced statistics. Petitioners, Samsung notes, have made the argument that, since the U.S. demand is growing for large and very large CTVs, Samsung has adjusted its Korean production to reflect this shift and can be expected to export these sizes should the Department grant revocation. Samsung states that petitioners have also made the argument that stiff competition from Southeast Asian producers will drive down U.S. prices to dumping levels because these producers have excess capacity that will be exported to the United States and enjoy a competitive advantage over Samsung due to the currencies of Southeast Asia depreciating to a greater extent than the Korean won. However, Samsung asserts, the import statistics indicate that exports from Southeast Asia currently compete in segments of the U.S. market (*i.e.*, small and medium screen sizes) which petitioners argue will not be the primary target of Samsung's Korean exports.

Samsung claims that Singapore was the one country that exported significant volumes of larger size CTVs to the United States during the January to November 1997 period. Samsung states that Philips, Sanyo, Toshiba, and Mitsubishi, the primary producers in Singapore, will do nothing to undercut their North American production facilities. Moreover, Samsung asserts that producers in Singapore are at a comparative disadvantage *vis-a-vis* Samsung and the other Korean producers because the Korean won depreciated further than the Singaporean dollar did in 1997. Samsung also states that, although the won depreciated more than the Singapore dollar, it depreciated approximately the same as the Thai baht and Malaysian ringgit since December 1996. This roughly equivalent depreciation, Samsung argues, provides no competitive advantage to producers in Thailand or Malaysia. Samsung, however, does acknowledge that the Indonesian rupiah depreciated more than any other Southeast Asian currency. Although this drastic depreciation would imply a competitive advantage for Indonesian producers, Samsung dismisses this implication by stating that Indonesia is not a meaningful supplier of CTVs to the United States.

Lastly, Samsung argues that many producers in Southeast Asia often purchase many CTV parts from related and unrelated producers outside the region. Samsung surmises that Southeast Asian producers may not be able to lower significantly their cost of production in dollar terms, or reduce their final dollar price, because these parts account for the bulk of the cost of production of CTVs and the dollar cost of these parts is not affected by the depreciation of the local currencies.

Department's Position: We disagree with petitioners' argument that Samsung is likely to sell CTVs in the U.S. market at LTFMV because the currencies of other Southeast Asian countries have depreciated further than the Korean won, thereby granting a competitive advantage to CTV producers in these countries, who can be expected to flood the U.S. market with deeply discounted imports and drive down U.S. prices to extremely low levels.

Petitioners' argument that Samsung is likely to resume sales at LTFMV because of the recent currency movements precipitated by the Asian economic downswing is based upon the assumption that Korean and other CTV producers essentially compete against one another only on the basis of price. Due to this assumption, petitioners argue that a greater depreciation in Southeast Asian currencies *vis-a-vis* the won necessarily means that Samsung will have to lower its U.S. price to stay competitive with CTV producers from these countries who export subject merchandise to the United States and are benefitting from the deeper currency depreciations. We disagree with petitioners' assumption that CTV producers compete only on the basis of price. We note that CTVs are not commodity products; they are produced in several different sizes, vary in quality, are visually distinct due to differently styled cabinets, and contain different types and quantities of features. Certain producers can also command a price premium on their CTVs due to brand name recognition. For these reasons, it is plausible to conclude that consumers include differences in size, features, brand name, and other factors into their decision when purchasing a CTV. Therefore, we find that CTV producers compete against one another with respect to more than price alone.

The ramification of petitioners' argument that CTV producers compete only on the basis of price is that if a foreign producer lowers its U.S. price, as may happen from a home market currency devaluation, then all other producers must fully match this price decrease or they will be uncompetitive, eventually lose market share and possibly exit the market. Due to the product differentiation discussed above, it is reasonable to assume that a price reduction by one CTV producer does not necessarily mean that competitors must follow suit to the same degree. The strength of a brand name or feature mix may be sufficient to allow a producer to

remain competitive, even in the face of decreasing prices by competitors.

Moreover, there are many factors that, in combination, constitute the competitive position of a producer in relation to its competitors. The relative strength of a producers' home market currency is only one such factor. While a devaluation of the other Southeast Asian currencies may make producers in these countries more competitive in the U.S. market, it also increases these producers' cost of capital and imported inputs, and may cause home market prices and costs to rise. For example, if a producer in Indonesia imports a large percentage of the parts and components used to produce a CTV in Indonesia, the deep depreciation of the rupiah may increase the production costs to a degree that might actually diminish this producers' overall competitive position rather than enhance it. Therefore, while it is correct that a depreciating currency may tend to decrease the pressure for a respondent to make LTFMV sales in the U.S. market, these linkages are not absolute and must not be considered in isolation. With respect to this case, there is very little information on the record concerning Samsung's home market costs or to what degree Samsung and the other Southeast Asian producers import parts and components used in the production of CTVs. Therefore, there is not sufficient evidence on the record to say conclusively how the exchange rate movements of the won and other Southeast Asian currencies have affected the competitive position of Samsung and CTV producers in these countries.

Petitioners assert that the Southeast Asian currencies depreciated further than the Korean won, which grants a competitive advantage to producers in these countries. Although this may have been the situation in December 1997, more recent exchange rate data indicates that this is no longer the case. We examined the exchange rates for the Singapore dollar, Indonesian rupiah, Malaysian ringgit, Thai baht, and Korean won from December 31, 1996, through June 30, 1998. *See* petitioners' submission dated February 13, 1998, at 37. *See* also the Analysis Memorandum, dated August 25,1998. Using the petitioners' methodology of indexing each currency's exchange rate data to the spot rate that prevailed on December 31, 1996, we were able to analyze the relative depreciations of the five Southeast Asian currencies. We found that by June 1998, the Singapore dollar and baht depreciated the least, retaining over 80 percent of their indexed value, while the rupiah depreciated the most, retaining only 20 percent of its indexed value. Although the won and ringgit depreciated at different rates over the length of the period we analyzed, by June 1998, the indexed exchange rates for these two currencies had converged to roughly the same point, with each currency retaining over 60 percent of its indexed value. These data indicate that only one currency, the rupiah, has consistently depreciated further than the won and, as Samsung points out, U.S. import statistics provided by petitioners indicate that Indonesia is not a significant supplier of CTVs to the U.S. market. Given Samsung's history of receiving zero or *de minimis* dumping margins in the face of an appreciating currency (*see* Samsung's February 13, 1998, submission at 8) and a larger debt burden than the debt experienced in 1997 (*see Comment 5* above), we find that the weight of the evidence on the record indicates that Samsung is not likely to resume dumping in the U.S. market.

Petitioners support their main argument that Samsung is likely to resume sales at LTFMV because the won has depreciated less than the other Southeast Asian currencies by making several allegations concerning the CTV producers in other Southeast Asian countries. In order to address each of petitioners' concerns, we provide the following discussion.

With respect to petitioners' allegation that Southeast Asian CTV producers have large excess capacity that will motivate them to dispose of their surplus inventory by exporting it to the United States, as we noted in *Comment 4* above, subtracting CTV demand from CPT production is not an appropriate method to calculate excess CTV capacity. Rather, examining the capacity utilization rate of a company's CTV production facilities is a more meaningful measure. Since petitioners have not placed any evidence on the record concerning the utilization rates of the CTV factories in Southeast Asia, we are not able to agree with petitioners' conclusion that producers in these countries have excess capacity.

Petitioners also claim that, because Southeast Asian CTV producers are not constrained by U.S. antidumping duty orders and are suffering from the negative effects of the Asian economic situation, they will increase exports to the United States and engage in aggressive price reductions that will eventually force Samsung to dump. Petitioners are correct in that the Department does not currently have any antidumping duty orders on CTVs from Malaysia, Indonesia, Singapore, or Thailand, and that Southeast Asian producers therefore do not have an externally enforced discipline on their pricing behavior. Since there is nothing on the record of this proceeding to indicate significant increases in exports and aggressive pricing by Southeast Asian producers, we disagree with petitioners that the absence of an antidumping duty order on CTVs from the Southeast Asian countries provides any additional incentive to producers from these countries to sell their merchandise at low prices, leading Samsung to eventually sell CTVs at LTFMV.

Finally, since petitioners have placed no data on the record of this review concerning the financial condition of CTV producers in Southeast Asia, we cannot agree with petitioners that these producers carry unmanageable debt loads, are unable to service their current debt, and are therefore forced to increase their exports to the United States at very low prices. Therefore, we disagree with petitioners that these factors, in conjunction with their main argument concerning currency movements, are likely to force Samsung to compete in the U.S. market at LTFMV.

Comment 7: Ability To Compete In The United States Market Without LTFMV Sales

Petitioners argue that Samsung's own cost and pricing data show that Samsung is likely to sell its CTVs in the U.S. market at below FMV. In its questionnaire response dated February 24, 1997, Samsung submitted price and cost information covering the period 1991 through the first half of 1996 for its sales and expenses of Korean-produced CTVs in Korea and its sales of Mexican-produced CTVs in the United States. With respect to its price data, Samsung reported its distributor sales prices, calculated as a single weighted-average price for all models within each screen size category. Korean prices and costs were converted to U.S. dollars with the weighted-average exchange rate for the first half of 1996.

Using the weighted-average price data reported by Samsung, petitioners compared U.S. market prices to Korean market prices and found that the U.S. prices for 25-, 27-, and 31-inch CTVs were consistently lower than those in Korea throughout the 1991–1996 period. With respect to 13-, 19-, and 20-inch CTVs, petitioners claim that, although Samsung's data were more varied throughout the 1991–1996 period, by the first half of 1996, U.S. prices were lower than Korean prices for these screen sizes. Thus, petitioners contend that these weighted-average price-to-price comparisons indicate that

significant dumping margins would exist if Samsung resumed CTV shipments directly from Korea. Petitioners defend their use of U.S. prices of Mexican-produced CTVs in their comparisons to Korean CTV prices because Samsung's cessation of CTV shipments directly from Korea has made current pricing data of CTVs produced in Korea and sold in the United States impossible to obtain. Given the competitive market for CTVs in the United States, petitioners assert it is reasonable to presume that Samsung's prices in the United States would not vary depending on the production location.

Furthermore, petitioners claim that the data for the first half of 1996 indicates that Samsung was selling at below its cost of production in the home market for 31-inch CTVs. In this situation, petitioners contend that the Department would not rely on Samsung's home market price to calculate the dumping margin, but would instead resort to constructed value (CV). Using a CV methodology, based on adding a profit amount to Samsung's cost of production to determine the appropriate normal value, petitioners perform a CV-to-price comparison for 31-inch CTVs and calculate an even higher dumping margin. Moreover, petitioners argue that the dumping margin based on CV is not eliminated even if Samsung's cost of production is converted into U.S. dollars at the significantly depreciated January 1998 exchange rate.

In their case brief, petitioners also compare specific 28- and 32-inch CTV models sold in Korea and the United States using 1997 retail prices obtained from a U.S. and Korean consumer electronics catalog. Petitioners use the January 1998 exchange rate to convert the retail prices of the Korean models to U.S. dollars, compare the converted Korean price to the retail price of comparable 32-inch models sold in the United States, and then calculate dumping margins. Petitioners state that any true comparison of home market and U.S. prices should be based on actual selling prices to distributors, with circumstance-of-sale adjustments, difference-in-merchandise adjustments, and adjustments for movement charges, data which is only available to Samsung and has not been provided on the record of this proceeding. Petitioners contend that these basic comparisons support their claim that Samsung is likely to resume dumping, especially in the large and very large screen models, should shipments directly from Korea recommence.

Petitioners conclude that Samsung's own price data and the retail price data from Korea and the United States indicate that Samsung cannot compete in the U.S. market without sales at LTFMV. According to petitioners, it is entirely predictable that Samsung has resolved to reenter the U.S. market and, in the face of competing and aggressively priced imports, will be forced to price its Korean CTVs unfairly. Petitioners note that Samsung has not sold a Korean-produced CTV in the United States for nearly seven years. By emphasizing that it has chosen to supply the U.S. market from Mexico, petitioners maintain that Samsung has acknowledged that it cannot competitively produce, ship, and sell CTVs to the United States from Korea. Petitioners conclude that Samsung's six years of *de minimis* margins provide no evidence of any current ability to compete without unfair pricing if the order were revoked.

Samsung responds to petitioners' allegation that its price and cost data reveal that dumping is likely to occur by stating that petitioners have relied upon stale 1996 data for their weighted-average price-to-price comparisons rather than using the more recent 1997 data Samsung submitted on the record of this proceeding. For example, Samsung states that using the price data for the first half of 1997 and the January 1998 exchange rate, the weighted-average price of its 31-inch CTVs sold in Korea, after being converted in dollar terms, is well below the weighted-average price for its 31-inch (Mexican-produced) CTVs sold in the U.S. market.

Samsung further states that any type of weighted-average price-to-price comparison of Korean CTV models to U.S. CTV models is invalid. Samsung argues that, although it is true that the price information it submitted shows that the weighted-average price of all models of a particular screen size sold in the United States were often lower than the weighted-average price of all models of that same screen size sold in Korea, petitioners incorrectly conclude that this is evidence that dumping would resume. According to Samsung, this conclusion is erroneous because weighted-average prices mask the fact that individual model prices within a particular screen size can vary widely. Samsung elaborates that the model mix and features contained in the models sold in the United States and Korea are significantly different. Samsung states that CTVs sold in Korea have a larger number of expensive features than the models its sells in the United States. In order to show that the lower U.S. weighted-average prices are accounted for by the differences in features between U.S. and Korean models, Samsung conducts a model-to-model comparison of its largest selling U.S. models (Mexican-produced) to the most physically similar models produced and sold in the Korean market and makes adjustments for selling expenses, duty drawback, and physical differences. According to Samsung, these comparisons indicate that Korean prices did not exceed U.S. prices for these models.

Using similar logic, Samsung argues that the problems inherent in comparing weighted-average prices also apply to comparing weighted-average costs of production. For this reason, Samsung claims that petitioners' allegation of below-cost sales in the home market is not valid because that allegation is based on a comparison of weighted-average costs of production to weighted-average prices, per screen size.

In regard to petitioners' comparison of specific 28- and 32-inch models, Samsung claims that these comparisons are invalid for several reasons. First, petitioners use Korean and U.S. retail prices, rather than wholesale prices, to demonstrate that Samsung would be likely to sell CTVs in the United States at dumped prices. Samsung states in its questionnaire response that it has two levels of trade in the United States, sales through its U.S. distribution subsidiary and sales Samsung describes as being to original equipment manufacturer (OEM) customers. Since it does not sell at the retail level in the United States, Samsung contends that retail prices should not be used in a ''likely'' dumping calculation. Second, Samsung claims that the Korean retail prices used by petitioners include special excise tax, value added tax, and other taxes which together total a significant percent of the wholesale price. Additionally, Samsung states that the Korean retail prices do not include the substantial rebates it usually grants to its customers. Third, Samsung claims that the Korean 28- and 32-inch models used by petitioners are not comparable to the United States models because the Korean models have a 16:9 CPT width/height ratio while the U.S. 32-inch models have a 4:3 ratio. Samsung asserts that the materials cost of a wide-screen CPT is greater than the cost of producing a normal screen CPT, and, therefore, any comparisons of these models at issue for dumping purposes would be distorted.

Samsung argues that its six years of *de minimis* margins, from the third through eighth reviews, constitute substantial evidence that it can compete in the United States market without pricing CTVs at LTFMV. Samsung notes that

during this six-year period of no dumping, its level of shipments to the United States remained substantial, its product mix remained varied, and it received *de minimis* margins even during periods of significant appreciation of the won (the fourth through eighth review periods). Most importantly, Samsung notes that it has invested millions of dollars in its Mexican production facilities that can, and do, fully serve the United States market. Samsung concludes that it has no need to ship CTVs from Korea to the United States, and even if it did, there is no evidence indicating that it would dump them on the U.S. market.

Department's Position: We disagree with petitioners' claim that Samsung is not able to compete in the U.S. market without LTFMV sales. In arguing their point, petitioners conduct rough dumping margin calculations on Samsung's U.S. and home market prices, both on a weighted-average by screen size basis and on a model-specific basis. We acknowledge that any type of dumping margin analysis conducted in this review is problematic due to Samsung's cessation of CTV shipments to the United States from Korea in early 1991. Unlike the pricing analyses conducted in past cases such as DRAMS and Brass Sheet and Strip, in this case a pricing analysis cannot be based on a comparison of home market and U.S. prices of Korean-produced CTVs, as the latter price is not available due to the cessation of shipments. Rather, in this case, the comparison involves home market prices of Korean-produced CTVs to U.S. prices of Mexican-produced CTVs. It is reasonable to presume that prices of Mexican- and Korean-produced CTVs reflect the cost structure of producing CTVs in Mexico and Korea, respectively. While the cost structures of Mexican and Korean CTVs vary, we conclude that in this case, use of the U.S. price for Mexican-produced CTVs is a reasonable surrogate for the U.S. price of Korean-produced CTVs because Samsung's pricing of its Mexican-produced CTVs sold in a competitive market, such as the U.S. market, provides some indication of the price for which Samsung's Korean-produced CTVs would be sold. Moreover, we note that there are no other pricing data available pertaining to Samsung.

In DRAMS, unlike the instant case, we determined the DRAM industry to be ''highly cyclical in nature with periods of sharp upturn and downturn in market prices.'' *See* DRAMS at 39810. Due to the position of the United States as the ''world's largest regional market for DRAMs, with considerable potential growth,'' we determined that companies had the economic incentive to ''ride out industry downturns'' in order to maintain market share. *See* DRAMS at 39819. The fact that DRAM producers had historically been found to have dumped during downturns supported our conclusion. However, in this case, we have determined that the U.S. CTV industry, as described in our discussion of *Comment 3* above, is not highly cyclical and does not have ''periods of sharp downturn and upturn in market price.'' Rather, the U.S. CTV industry is a competitive and mature industry, that has reached approximately 98 percent household penetration. Samsung's reported U.S. prices and the price data it provided for the overall U.S. CTV industry indicate that this industry is generally stable, exhibiting a historic trend of modest, annual price decreases. *See Comment 3* above. Since Samsung received *de minimis* margins during four consecutive years of price decreases, from April 1985 through March 1988, we determine that it has demonstrated the ability to compete in the U.S. market without LTFMV sales.

In their analysis, petitioners compared the weighted-average prices Samsung reported, by screen size, for its Korean and U.S. sales. Based on this comparison, petitioners argue that Samsung's Korean prices are higher than its U.S. prices in the large and very large product segments, which indicates that dumping would occur given the resumption of shipments. We disagree with this conclusion. First, we note that comparing weighted-average prices between the Korean and U.S. markets is problematic, as Samsung states, because in the CTV industry the prices of individual models within the same screen size category can vary widely, the model mix within each screen size is different across markets, and the types and quantity of features contained in specific models are significantly different between markets. Since Korean models may contain a larger number of expensive features, this may account, at least in part, for the differences in prices observed by petitioners for the 25-, 27-, and 31-inch CTVs sold in the two markets. Absent evidence to the contrary on the record of this proceeding, it is not unreasonable that the Korean weighted-average price for a given screen size is higher than the U.S. weighted-average price in that same size. Moreover, the model-to-model comparisons that Samsung conducted, in order to show that the lower U.S. weighted-average prices are accounted for by the differences in features between U.S. and Korean models, showed that after adjusting the initial prices of the Korean and U.S. models for selling expenses, duty drawback, and physical differences, the alleged dumping margins suggested by the models' unadjusted prices were eliminated. *See* Samsung's letter to the Secretary, dated August 22, 1997, at Exhibit A. These comparisons were done for 13 of Samsung's largest selling U.S. models, accounting for approximately 50 percent of its total U.S. sales, and support the conclusion that the petitioners' analysis cannot be relied upon as a basis to determine that Samsung is likely to resume sales at LTFMV.

In regard to petitioners' allegation of below-cost sales in Korea, we agree with Samsung that in the CTV industry, comparing the weighted-average cost of production to the weighted-average home market price on a screen size-specific basis is problematic because prices and costs of production of individual models within the same screen size category can vary widely due to the differences in the types and quantities of features contained in specific models. This reasoning is especially relevant in large and very large screen sizes, which tend to contain more features than smaller CTVs.

With respect to petitioners' comparison of prices for specific 28- and 32-inch models sold in the U.S. and Korean markets, we agree with Samsung that these comparisons are of limited value because these prices have not been adjusted for taxes, rebates, and other expenses and that some of the models compared to one another contain CPTs of different width/height ratios.

In addition, during its six years of *de minimis* margins, Samsung exported substantial quantities of subject merchandise in a varied product mix. *See* Samsung's submission dated February 13, 1998, at page 8. This fact pattern is different from Brass Sheet and Strip, where we denied partial revocation of the order because, among other factors, the respondent had ''severe decreases in shipments of brass sheet and strip to the U.S. since the imposition of the order,'' culminating in the respondent selling at not LTFMV a single model in a single transaction during the eighth administrative review of that order. Additional evidence that Samsung can compete in the U.S. market without LTFMV sales is that Samsung's shipments from Korea occurred while the won was appreciating.

Comment 8: Third Country Trade Restrictions

Petitioners state that Samsung's Korean CTV operations are extremely export-oriented and that the United States, due to its open economy, is the likely recipient of these exports. As evidence, petitioners note that the United States duty rate on the majority of imported CTVs is 5 percent, in contrast to the 14 percent external tariff found within the European Union (EU). More importantly, petitioners observe that the EU has placed antidumping duties against Korean and other Southeast Asian CTVs. Specifically, the EU imposed on Samsung antidumping duties of up to 10.5 percent on small CTVs and 13.7 percent on all other sizes that are shipped directly from Korea. Thus, petitioners conclude, Samsung faces cumulative ordinary and antidumping duties on exports to Europe of up to 27.7 percent, as compared to an antidumping duty deposit of zero and an ordinary duty rate of 5 percent on exports to the United States.

Petitioners argue that, contrary to Samsung's assertions, its strategy of localizing production within its major CTV markets around the world may have more to do with gaining access to markets with barriers to CTV imports than with relative advantages in terms of production or shipping costs. Although Samsung claimed in its questionnaire response that it has not faced any barriers to exporting CTVs, petitioners maintain that the recurring pattern of having sales within a third country jump significantly once the local facility began production supports the thesis that market barriers provided the incentive to establish local production. Therefore, petitioners conclude that because Samsung faces significant trade restrictions in third countries, as its localization strategy implicitly acknowledges, it has a strong incentive to ship its excess CTV production to the United States and, in combination with the other factors discussed by petitioners, sell this merchandise at LTFMV in the U.S. market.

Samsung does not dispute the regular and antidumping duty rates provided by petitioners for the EU and United States. However, Samsung notes that these European duties have been in effect since 1990 and have not compelled Samsung to export CTVs to the United States from Korea during the last eight years. In regard to barriers to trade in third countries, Samsung stated in its questionnaire response that it has not encountered any barriers to trade in third countries that have made it difficult to sell CTVs in those counties. Samsung claims that its localization strategy was adopted in order to reduce costs and meet demand in markets within each localized facility's geographic region.

Department's Position: Although the topic of third country trade restrictions goes more toward the issue of whether Samsung is likely to resume shipping, rather than dumping, we provide the following discussion in order to address fully all of petitioners' concerns.

We disagree with petitioners' argument that tariff barriers in major CTV markets will motivate Samsung to export CTVs to the United States from its Korean production facilities and sell such exports at LTFMV. Petitioners observe that Samsung's Korean exports face cumulative ordinary and antidumping duties in Europe of up to 27.7 percent, while, if the U.S. antidumping duty order is revoked, such exports are subject to the smaller 5 percent regular tariff in the United States. Therefore, petitioners state that it is reasonable to conclude that a large volume of Samsung's CTV exports from Korea will be shipped to the United States.

In past cases, we have examined trade restrictions in third country markets in making its determination on the likelihood of the respondent resuming sales at LTFMV. In TVs from Japan, we agreed with the petitioner's argument that since other countries (specifically, the EU) had instituted more restrictive import controls over consumer products, the Japanese producers would increasingly depend on sales in the U.S. market. *See* TVs from Japan at 35519. However, the issue of whether the Japanese producers had other, substantial CTV markets besides the U.S. and EU was not addressed in the final determination of that case. More recently, we have stated that it is important to examine whether the respondent is ''solely dependent on the U.S. for financial viability'' and if it made significant sales in other third countries when considering revocation. *See* Steel Wire Rope 1997 at 17174. In the case of Samsung, the facts demonstrate that the company has access to third country markets and, thus, does not rely solely on the U.S. market.

For example, petitioners' argument that Samsung has an incentive to resume shipments to the United States because it faces high import barriers in the EU, a major CTV market, fails to take into account Samsung's CTV operations in Eastern and Western Europe, which Samsung states serve the CTV markets of these two regions. *See* Samsung's February 24, 1997, submission at Appendix 1. The existence of these operations limits the importance of EU trade restrictions on Samsung's Korean-produced CTVs in our analysis of whether Samsung is not likely to resume dumping in the U.S. market in the absence of an antidumping duty order.

In addition, petitioners' argument does not take into account that Samsung's Mexican operations have served the U.S. market since 1991. In the context of the terminated anti-circumvention inquiry, the Department verified Samsung's Mexican CTV production facilities. As the verification report states, the Department found that these facilities include a CTV assembly plant, parts and components plant, CPT plant, a proposed glass plant, and several feeder plants established and operated by unrelated Korean suppliers to Samsung. *See* the memorandum to the file, dated August 12, 1998, that transmits the November 26, 1997, verification report to the record of this review. From these facilities, Samsung produces CTVs ranging from 13 to 31 inches that are sold throughout North, Central, and South America. During the first half of 1997, most of the Mexican-produced CTVs exported to the United States enter the country duty-free under NAFTA tariff preference provisions. Using the same logic employed by petitioners, that Samsung will export CTVs to the market with the lowest tariff barriers, we can only conclude that Samsung will continue to service the U.S. market from Mexico because CTVs produced in Mexico can enter the U.S. duty-free under NAFTA, provided they meet NAFTA rules of origin. In addition to its Korean and Mexican facilities, Samsung also has CTV production operations in West Europe, East Europe, East Asia, and South East Asia. *See* Samsung's February 24, 1997, questionnaire response at Appendix 1. Because Samsung has access to these markets based upon its localization process, the third country restrictions to trade are not significant in this case.

Comment 9: New Technologies—High-Definition Television

Petitioners contend that although this changed circumstances review should not be used as a surrogate scope inquiry, high-definition television (HDTV) and other new technologies, are within the scope of this order and the development of such technology should be factored into the Department's revocation analysis. Specifically, petitioners state that HDTV will be capable of producing a video image and receiving a television

signal, and that these features in and of themselves are sufficient to satisfy the scope requirements. In regard to Samsung's claim that HDTVs will include other features or be used for purposes other than receiving a broadcast signal, petitioners state that these claims were not dispositive in the *Final Affirmative Scope Ruling—Antidumping Duty Order on Color Television Receivers from Taiwan (A–583–009); Coach Master International Corporation,* 63 FR 805 (January 7, 1998), and should not be so here. Furthermore, petitioners assert that the Department has consistently found that new technologies, such as liquid crystal diode TVs, are included within the scope of the CTV order. *See, e.g., Television Receiving Sets, Monochrome and Color, from Japan,* 56 FR 66841 (December 26, 1991). Petitioners maintain that in these cases, uncertainties about the future marketing, prices, or demands have never been dispositive factors in deciding whether these new technologies are within the scope of the order.

Petitioners claim that Samsung has consistently denied throughout the course of this segment of the proceeding that it would be producing HDTVs, or any other new television technology, in Korea. As evidence for their assertion, petitioners cite excerpts from Samsung's questionnaire response and subsequent submissions where Samsung characterized its current state of HDTV development as still in the research and development stage, where mass production was not in the foreseeable future. In actuality, petitioners argue, Samsung has invested millions of dollars into developing this technology and has reached the point where mass production of HDTVs is scheduled to begin during the second half of 1998. In support of its argument, petitioners note that Samsung displayed a fully functional HDTV unit at the January 1998 consumer electronics show in Las Vegas, Nevada. Petitioners explain that the promotional literature Samsung distributed during the trade show described the new, proprietary digital television chipset architecture Samsung developed and discussed the long list of features the HDTV model will contain.

Petitioners also claim that Samsung's argument that HDTV production will not occur for many years away due to, in part, the long schedule for transition to digital broadcasting is suspect because Samsung, in its own promotional literature, includes the Federal Communications Commission's transition schedule, which states that by May 1999, 20 percent of the U.S. population will be able to receive digital signals and, by November 2000, digital signal broadcasts will cover 50 percent of the U.S. population. Petitioners maintain that these numbers indicate that in just over two years, half of the U.S. television market will be receiving digital signals and potentially be ready to purchase a digital receiver.

According to petitioners, the first type of HDTVs sold in the United States will be projection-style CTVs. Petitioners assert that because Samsung does not produce projection-style CTVs in Mexico, it does not currently have the capacity to assemble projection-style HDTVs in Mexico. However, since Samsung sells and presumably produces the projection-style CTVs in Korea, combined with the fact that Korea has recently adopted the advanced television systems committee (ATSC) standard for digital broadcast, petitioners conclude that Samsung has the ability and motivation to produce projection-style HDTVs in Korea for sale in the Korean market and export to the United States.

Petitioners also argue that HDTVs are likely to be sold in the United States at less than normal value. Petitioners base this allegation on an estimate by Thomson Consumer Electronics (Thomson) that the cost of manufacture for a projection-style HDTV will be a large multiple of the cost of manufacture for a 31-inch CTV. Starting with Samsung's 1996 cost of production for a 31-inch conventional CTV, petitioners convert this cost to U.S. dollars using the January 1998 exchange rate, and then inflate this amount by a large multiple to arrive at an estimate of Samsung's cost of production for a HDTV. Using Samsung's 1996 financial statement, petitioners calculate amounts for SG&A expenses, interest expenses, and profit. These amounts are added to their estimated cost of production to produce a final CV for HDTV. Petitioners then take Samsung's estimated retail U.S. price range for HDTVs and reduce it by a certain percentage to adjust for retail markup. Petitioners claim that without making further adjustments to the U.S. price to account for freight and other movement expenses involved in transporting the HDTVs from Korea to the United States, a CV-to-price comparison indicates that Samsung would be dumping its HDTVs in the United States.

Samsung argues that HDTV will be outside the scope of the order on Korean CTVs because this new technology does not meet the four criteria for determining whether ''later-developed-merchandise'' is within the scope of an outstanding order. First, with respect to physical characteristics, Samsung notes that HDTVs use a digital signal technology, while conventional CTVs use non-compatible analog technology. HDTV will have a 16:9 width/height ratio compared to a 4:3 ratio for a conventional CTV. HDTV will have advanced hardware and software that allows it to display roughly twice the resolution of a conventional CTV. Additionally, HDTV will have the ability for interactive use and receipt of data services. Second, Samsung claims that due to the better picture and sound quality, along with the data service capability, the expectations of an ultimate purchaser of a HDTV will be vastly different from those of a purchaser of a conventional CTV. Third, with respect to the ultimate use of HDTV, Samsung contends that it will differ significantly from a conventional CTV precisely because of the interactive function and the ability to receive data transmission, such as stock pricing, home shopping information, and electronic newspapers. Fourth, Samsung states that it is highly unlikely that it will sell HDTVs through the same channels of distribution as it sells conventional CTVs. Since HDTVs will have a price of over $5,000, Samsung will have to sell HDTVs through dealers which specialize in high-tech and luxury products, rather than its current distribution channel of companies selling more affordable products, such as Circuit City, Best Buy, Sears, and Wal-Mart. For these reasons, Samsung concludes, HDTVs will not be within the scope of the order on Korean CTVs and, therefore, the development of such technology should not be considered a factor in the Department's revocation analysis.

Samsung states that HDTV is a very new and complicated technology, and it will take many years for CTV producers to develop the ability to mass produce HDTV sets. As support, Samsung cites several press articles that indicate the HDTV market will be characterized by prohibitively high prices, low sales volume, and slow market penetration. For these reasons, Samsung states that it does not intend to produce HDTV in commercial quantities in the reasonably foreseeable future.

More specifically, Samsung states that commercial production cannot begin until it completes all three stages of research and development. Samsung states that it has completed only the first stage, development of a prototype, as evidenced by the functional unit displayed at the January 1998 consumer electronics trade show. Samsung claims that the second and third stages, respectively the development

verification test and the manufacturing verification test, have yet to begin. However, Samsung contends that these stages cannot begin until the ATSC approves the software standards for HDTV. Samsung claims that this approval is not expected until September 1998.

Samsung contends that in addition to the technical reasons preventing immediate commercial production, such production is not feasible until broadcasters have converted to digital signals. According to the regulations governing this transition, conversion to digital broadcasting in the United States is not scheduled for completion until the year 2002, at the earliest. Until the transition is completed, Samsung argues, the market in the United States will not be large enough to justify commercial production of HDTVs. Therefore, due to the technical restrictions and the long transition schedule, Samsung concludes that commercial production of HDTV in the United States is at least four years away.

Samsung next argues that when commercial production begins, it will occur in Mexico, rather than in Korea, because it makes economic sense to do so. Samsung claims that it will be more expensive to produce HDTVs in Korea, rather than Mexico, for the following reasons: (1) Samsung would have to pay freight costs on many of the components used in its HDTV design because most of the major components are manufactured in the United States and Japan, (2) shipping, transportation, and inventory charges would be higher due to the large size of rear-projection sets, and (3) Samsung would have to pay the regular 5 percent duty on finished CTVs if HDTV is ultimately determined to be within the scope of the CTV order. Samsung concludes that most of these expenses would be avoided if Samsung produced the HDTV units in Mexico. Lastly, Samsung contends that there is no material difference in the nature of the assembly facilities in Mexico and Korea, as the Department verified in the context of the terminated anti-circumvention inquiry. Samsung claims that in both facilities new HDTV production lines will need to be constructed and petitioners have not provided evidence to the contrary. Although petitioners argue that Samsung's existing production capacity in Korea for rear-projection convention CTVs offers an economic advantage to locating production of rear-projection HDTVs in Korea, Samsung states that petitioners have provided no evidence to substantiate their claim. Samsung states that petitioners have excellent information sources within the CTV industry and could have provided factual information concerning the characteristics or cost of an HDTV production line or the ability of a producer to utilize and/or convert an existing conventional rear-projection CTVs production line to produce HDTVs. According to Samsung, the fact that petitioners did not provide such evidence indicates that there is no credible reason why Samsung cannot produce HDTVs in Mexico.

Samsung argues that petitioners' estimate of the likelihood of Samsung dumping HDTVs in the United States is based on wholly unsubstantiated allegations concerning Samsung's price and cost structure, which has yet to be established because Samsung has not started to sell or commercially produce HDTVs. Specifically, Samsung states that petitioners have no concrete basis for their HDTV cost allegation, but instead must rely on a cost estimate certified by Thomson. Furthermore, Samsung states that petitioners' claim that Thomson's cost of manufacture of a projection-style HDTV is a large multiple of the cost of a 31-inch CTV, is inherently unreliable given the enormous technical differences between analog CTV and HDTV. Lastly, Samsung argues that petitioners' effort to adjust the expected U.S. retail price for HDTVs to the wholesale level by adjusting for a ''typical retail mark-up'' is problematic given that no retail or wholesale sales have been made by any producer.

Department's Position: This discussion should not be viewed as a surrogate scope inquiry. In an official scope inquiry, parties typically place on the record very technical data, including product specifications, of a product that has actually been produced and sold in the United States. There is no such data on the record in this segment of the proceeding. However, based on the presumption that the scope covers all CTVs unless expressly excluded, the Department will consider, as we did in TVs from Japan, the development of new technology in our analysis of whether it is not likely that Samsung would renew dumping. *See* TVs from Japan at 35519.

Although we agree with petitioners that HDTV is presumed to be subject merchandise within the scope of the order for purposes of this changed circumstances review, we cannot reasonably conclude, based on the record evidence, that Samsung is likely to sell HDTV at LTFMV, even if Samsung were to produce such merchandise in Korea. The fact that an industry is developing new technologies is not, by itself, a sufficient argument on which to base a claim that these new technologies are likely to be dumped. There must be credible evidence to indicate not only that these new technologies are soon to be introduced into the U.S. market, but also that such merchandise is likely to be sold at LTFMV. In TVs from Japan, we found that new technological trends in the television industry, such as LCD TVs, were likely to be developed and produced in Japan and that ''the incentive to sell such products at LTFMV will depend on competitive market pressures.'' *See* TVs from Japan at 35519. Furthermore, we stated that ''given the number of companies currently pursuing new technologies and the high production costs in Japan combined with the high value of the yen,'' we could not conclude that there was no likelihood of selling new products at LTFMV in the future. *Id.* at 35519. The Department found that the evidence on the record of that case indicated that new technologies were to be produced in the home market (Japan), the home market currency (the yen) was appreciating, home market production costs were high, and that competition would be strong given the number of companies pursuing such technology. Based on the totality of the circumstances in that case, the Department could not conclude that the respondents (Sanyo and Hitachi) were not likely to sell the new products at LTFMV in the future.

In this case, the petitioners' arguments with respect to sales of HDTV being sold at LTFMV are not persuasive. First, HDTV technology has been under development for more than 10 years and has yet to become commercially viable. Second, the fact that petitioners' estimate of Samsung's cost of production for HDTV is based on the cost of production for an 31-inch analog CTV, which is technically very different from HDTV, is problematic because it is highly speculative of the real costs of HDTVs. Samsung has not produced or sold commercial quantities of HDTV. Moreover, the estimates provided by petitioners cannot reasonably be relied upon because petitioners have not demonstrated any cost relation between 31-inch analog CTVs and HDTV, nor have they explained the derivation or calculation of the large multiple used in their analysis. Absent some reasonable explanation, the Department cannot rely on those highly speculative estimates as a valid indicator of the cost of production for HDTV.

Although in past cases we have found that new technology is developed in the home market (*i.e.*, TVs from Japan), we

cannot reach the same conclusion in this case. Specifically, we note that the bill of materials Samsung provided for its HDTV prototype revealed that none of the four major components (*i.e.*, the chipset, CPT, lens, and screen panel) were produced in Korea. In light of the won's depreciation, the cost of importing these components has risen and may be a disincentive to Samsung in keeping HDTV production in Korea. Therefore, based on the evidence on the record, we cannot conclude that HDTVs, once fully developed by Samsung, will be produced in Korea or dumped in the United States.

Affirmative Final Determination of Changed Circumstances

Based on the foregoing analysis, we determine, pursuant to Section 353.25(d) of the Department's regulations, that changed circumstances warrant partially revoking the antidumping duty order on CTVs from Korea with respect to merchandise exported by Samsung that is also manufactured by Samsung. Pursuant to our final results, we will instruct the U.S. Customs Service (Customs) to end the suspension of liquidation of merchandise subject to the order on CTVs from Korea, as it applies to Samsung, on or after the publication date of this notice of final determination, and to refund any estimated antidumping duties collected, for all unliquidated entries of such merchandise made on or after the publication date of this notice of final determination. We will also instruct Customs to pay interest on such refunds in accordance with Section 778 of the Act.

This final affirmative changed circumstances determination is in accordance with Section 751(b) of the Act and 19 C.F.R. 353.22(f).

Dated: August 26, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–802]

Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Indonesia

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

EFFECTIVE DATE: September 2, 1998.

FOR FURTHER INFORMATION CONTACT: Mary J. Jenkins or Irene Darzenta Tzafolias, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1756 or (202) 482–0922, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are references to 19 CFR part 351 (62 FR 27296; May 19, 1997).

Amended Preliminary Determination

We are amending the preliminary determination of sales at less than fair value for certain preserved mushrooms from Indonesia to reflect the correction of a ministerial error made in the margin calculations in that determination. We are publishing this amendment to the preliminary determination pursuant to 19 CFR 351.224(e).

Case History

On July 27, 1998, the Department preliminarily determined that certain preserved mushrooms from Indonesia are being, or are likely to be, sold in the United States at less than fair value (63 FR 41783; August 5, 1998).

On July 29, 1998, we disclosed our calculations for the preliminary determination to counsel for PT Dieng Djaya(Dieng)/PT Surya Jaya Abadi Perkasa (Surya), and PT Zeta Agro Corporation (Zeta). On August 3, 1998, we disclosed our calculations to counsel for petitioners.

On August 3, 1998, we received a submission, timely filed pursuant to 19 CFR 351.224(c)(2), from Dieng/Surya and Zeta alleging ministerial errors in the Department's preliminary determination. In their submission, Dieng/Surya and Zeta requested that these errors be corrected and an amended preliminary determination be issued reflecting these changes.

We did not receive ministerial error allegations from the petitioners. On August 11, petitioners filed comments on respondents' allegations. However, because it not the Department's practice to consider replies to comments submitted in connection with a preliminary determination under 19 CFR 351.224(c)(3), we did not consider these comments.

Amendment of Preliminary Determination

The Department's regulations provide that the Department will correct any significant ministerial error by amending the preliminary determination. See 19 CFR 351.224(e). A significant ministerial error is an error the correction of which, either singly or in combination with other errors: (1) would result in a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the original (erroneous) preliminary determination; or (2) would result in a difference between a weighted-average dumping margin of zero (or *de minimis*) and a weighted-average dumping margin of greater than *de minimis*, or vice versa. *See* 19 CFR 351.224(g).

After analyzing Dieng/Surya and Zeta's submission, we have determined that a ministerial error was made in the margin calculation for Dieng/Surya and Zeta in the preliminary determination. Specifically, we inadvertently used programming language that incorrectly applied the number of cans per carton in the constructed value (CV) data base.

Dieng/Surya and Zeta also alleged that the Department made three additional ministerial errors by: (1) overlooking record evidence of an Indonesian respondent in the calculation of CV profit and selling expenses, (2) failing to calculate combined weighted-average export prices for Dieng/Surya, and (3) incorrectly calculating general and administrative expenses for CV. However, the Department has determined that none of these errors is in fact a ministerial error as defined in 19 CFR 351.224(f), and therefore, did not consider them at this time. See Memorandum to Louis Apple from The Team, dated August 20, 1998, for further discussion of Dieng/Surya and Zeta's ministerial error allegations and the Department's analysis.

Pursuant to 19 CFR 351.224(g)(1), the ministerial error acknowledged above for Zeta is not significant. Therefore, we have not recalculated the margin for Zeta. However, with regard to Dieng/Surya, because the correction of the ministerial error results in a difference between a weighted-average dumping margin of greater than *de minimis* and a weighted-average dumping margin of *de minimis*, the Department hereby amends its preliminary determination with respect to Dieng/Surya to correct this error. In addition, we have recalculated the ''All Others Rate.''