

Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will subsequently issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B-099, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. See 19 CFR 351.310(c).

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisal instructions directly to the Customs Service upon completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties. We will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by this review if any assessment rate calculated in the final results of this review is above *de minimis* (i.e., at or above 0.5 percent) (see, 19 CFR 351.106(c)(2)). For assessment purposes, if applicable, we intend to calculate an importer-specific assessment rate by aggregating the dumping margins calculated for all U.S. sales and dividing this amount by the total quantity sold.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for Dinsen will be that established in the final results of this review, except if the rate is less than 0.5 percent, and therefore, *de minimis* within the meaning of 19 CFR

351.106(c)(1), in which case the cash deposit rate will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the rate published in the final determination; or (3) if the manufacturer or exporter is not a firm covered in this review or the LTFV investigation, 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 2.98 percent, the "All Others" rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this 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. See 19 CFR 351.402(f)(3).

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 2, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-823]

Professional Electric Cutting Tools From Japan: Preliminary Results of Antidumping Duty Administrative Review and Intent To Revoke Order in Part

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

ACTION: Notice of preliminary results of antidumping duty administrative review and intent to revoke order in part.

SUMMARY: In response to a request by the respondents, Makita Corporation and

Makita U.S.A., Inc., the U.S. Department of Commerce is conducting an administrative review of the antidumping duty order on professional electric cutting tools from Japan. The period of review is July 1, 1997, through June 30, 1998.

We have preliminarily found that no sales of subject merchandise have been made below normal value. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service not to assess antidumping duties on the subject merchandise exported by Makita Corporation. Furthermore, if these preliminary results are adopted in our final results of this administrative review, we intend to revoke the antidumping duty order with respect to Makita Corporation, based on three consecutive review periods of sales at not less than normal value (see 19 CFR 351.222(b)(i)). See *Intent to Revoke* section of this notice.

EFFECTIVE DATE: August 10, 1999.

FOR FURTHER INFORMATION CONTACT: Brian Smith, at (202) 482-1766, Barbara Wojcik-Betancourt at (202) 482-0629, or Brian Ledgerwood, at (202) 482-3836, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The 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, as amended ("the Act"), by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all references are made to the U.S. Department of Commerce's ("the Department's") final regulations at 19 CFR Part 351 (1998).

Case History

On July 12, 1993, the Department published in the **Federal Register** an antidumping duty order on professional electric cutting tools from Japan. See 58 FR 37461. On July 1, 1998, the Department published a notice providing an opportunity to request an administrative review of this order for the period July 1, 1997, through June 30, 1998 (63 FR 35909). On July 24, 1998, we received a timely request for an administrative review from Makita Corporation ("Makita Japan") and Makita U.S.A. Inc. ("Makita USA"), Makita Japan's affiliated selling agent in the United States. In addition, Makita

Japan and Makita USA (hereafter "Makita" when referenced collectively) requested that the Department revoke the antidumping duty order with respect to Makita. On August 27, 1998, we published the notice of initiation of this review (63 FR 45796).

On August 31, 1998, we issued an antidumping questionnaire to Makita. Because the Department disregarded sales below the cost of production ("COP") in the last completed review (see *Notice of Final Results of Fourth Antidumping Duty Review: Professional Electric Cutting Tools from Japan*, 63 FR 54441 (October 9, 1998)), the Department had reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of normal value ("NV") in this review may have been made at prices below the COP as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated an investigation to determine whether Makita Japan made home market sales during the POR at prices below its COP, and required Makita Japan to respond to the COP section of the questionnaire issued in August 1988.

The Department received the questionnaire responses in October 1998. We issued supplemental questionnaires in January 1999. We received responses to these questionnaires in February 1999. Because Makita requested revocation of the order, the Department verified the company's response pursuant to section 782(i)(2) of the Act.

In December 1998, the Department requested submissions of factual information regarding revocation of the antidumping order in part. Such submissions were received from the petitioner and Makita in February and March, 1999, and were also verified by the Department.

On March 5, 1999, the Department published a notice postponing the preliminary results of this review until August 2, 1999 (64 FR 10621).

Scope of Review

Imports covered by this review are shipments of professional electric cutting tools ("PECTs") from Japan. PECTs may be assembled or unassembled, and corded or cordless.

The term "electric" encompasses electromechanical devices, including tools with electronic variable speed features. The term "assembled" includes unfinished or incomplete articles, which have the essential characteristics of the finished or complete tool. The term "unassembled" means components which, when taken

as a whole, can be converted into the finished or unfinished or incomplete tool through simple assembly operations (e.g., kits).

PECTs have blades or other cutting devices used for cutting wood, metal, and other materials. PECTs include chop saws, circular saws, jig saws, reciprocating saws, miter saws, portable band saws, cut-off machines, shears, nibblers, planers, routers, joiners, jointers, metal cutting saws, and similar cutting tools.

The products subject to this order include all hand-held PECTs and certain bench-top, hand-operated PECTs. Hand-operated tools are designed so that only the functional or moving part is held and moved by hand while in use, the whole being designed to rest on a table top, bench, or other surface. Bench-top tools are small stationary tools that can be mounted or placed on a table or bench. These are generally distinguishable from other stationary tools by size and ease of movement.

The scope of the PECTs order includes only the following bench-top, hand-operated tools: cut-off saws; PVC saws; chop saws; cut-off machines, currently classifiable under subheading 8461 of the Harmonized Tariff Schedule of the United States (HTSUS); all types of miter saws, including slide compound miter saws and compound miter saws, currently classifiable under subheading 8465 of the HTSUS; and portable band saws with detachable bases, also currently classifiable under subheading 8465 of the HTSUS.

This order does not include: professional sanding/grinding tools; professional electric drilling/fastening tools; lawn and garden tools; heat guns; paint and wallpaper strippers; and chain saws, currently classifiable under subheading 8508 of the HTSUS.

Parts or components of PECTs when they are imported as kits, or as accessories imported together with covered tools, are included within the scope of this order.

"Corded" and "cordless" PECTs are included within the scope of this order. "Corded" PECTs, which are driven by electric current passed through a power cord, are, for purposes of this order, defined as power tools which have at least five of the following seven characteristics:

1. The predominate use of ball, needle, or roller bearings (*i.e.*, a majority or greater number of the bearings in the tool are ball, needle, or roller bearings);
2. Helical, spiral bevel, or worm gearing;
3. Rubber (or some equivalent material which meets UL's specifications S or SJ) jacketed power

supply cord with a length of 8 feet or more;

4. Power supply cord with a separate cord protector;

5. Externally accessible motor brushes;

6. The predominate use of heat treated transmission parts (*i.e.*, a majority or greater number of the transmission parts in the tool are heat treated); and

7. The presence of more than one coil per slot armature.

If only six of the above seven characteristics are applicable to a particular "corded" tool, then that tool must have at least four of the six characteristics to be considered a "corded" PECT.

"Cordless" PECTs, for the purposes of this order, consist of those cordless electric power tools having a voltage greater than 7.2 volts and a battery recharge time of one hour or less.

PECTs are currently classifiable under the following subheadings of the HTSUS: 8508.20.00.20, 8508.20.00.70, 8508.20.00.90, 8461.50.00.20, 8465.91.00.35, 85.80.00.55, 8508.80.00.65 and 8508.80.00.90. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

This review covers one company, Makita, and the period July 1, 1997 through June 30, 1998.

Verification

As provided in section 782(i)(2) of the Act, we verified information provided by Makita. We used standard verification procedures, including on-site inspection of the manufacturer's facilities and examination of relevant sales and financial records. Our verification results are outlined in the verification reports placed in the case file.

Duty Absorption

On September 24, 1998, the petitioner requested that the Department determine whether antidumping duties had been absorbed during the POR. Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. In this case, Makita Japan sold to the United States through an importer that is affiliated within the meaning of section 771(33) of the Act.

Section 351.213(j)(2) of the Department's regulations provides that for transition orders (*i.e.*, orders in effect on January 1, 1995), the Department will conduct duty absorption reviews, if requested, for administrative reviews initiated in 1996 or 1998. Because the order underlying this review was issued prior to January 1, 1995, and this review was initiated in 1998, we will make a duty absorption determination in this segment of the proceeding. As we have preliminarily found that there is no dumping margin for Makita with respect to its U.S. sales, we have also preliminarily found that there is no duty absorption. See *Preliminary Results of Antidumping Administrative Review: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from Germany*, 64 FR 16703 (April 6, 1999).

Fair Value Comparisons

We compared the constructed export price ("CEP") to the NV, as described in the *Constructed Export Price* and *Normal Value* sections of this notice. Pursuant to section 777A(d)(2) of the Act, we compared the CEPs of individual transactions to contemporaneous monthly weighted-average prices of sales of the foreign like product (where there were sales that passed the COP test, as discussed in the *Cost of Production Analysis* section below, and were otherwise in the ordinary course of trade).

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Makita Japan covered by the description in the *Scope of the Review* section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate, in a month within the contemporaneous window period, which extends from three months prior to the U.S. sale until two months after the sale. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: configuration, capacity, number of battery cells, power, speed, housing type and size.

Level of Trade/CEP Offset

In accordance with section 773(a)(7) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general, and administrative ("SG&A") expenses and profit. For EP sales, the U.S. LOT is also the level of the starting-price sale, which is usually from the exporter to the importer. For CEP sales, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine the stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP Offset provision). See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In order to determine whether Makita warrants a LOT adjustment or CEP offset, as claimed, we compared the CEP sales to the HM sales in accordance with the principles discussed above. For purposes of our analysis, we examined information regarding the distribution systems in both the United States and Japanese markets, including the selling functions, classes of customers, and selling expenses for the company.

In this review, Makita Japan reported two channels of distribution in the home market: (1) Sales made at the wholesale/distributor price level; and (2) sales made at the dealer/retail price level. Makita Japan based the channels of distribution on the entity (*i.e.*, wholesaler, subwholesaler or retailers) in the distribution chain to which Makita Japan had billed or shipped the merchandise. We preliminarily determine that these sales constitute

two LOTs in the home market. As explained below, we found that while Makita Japan performs some of the same selling functions for both distribution channels, the level of activities performed varies.

Makita Japan reported only CEP sales in the U.S. market. For the U.S. market, Makita reported three channels of distribution from Makita USA to unaffiliated customers, as follows: (1) Sales made at the wholesaler price level; (2) sales made at the retailer price level, and (3) sales made directly to the end user. However, the LOT of the CEP sales was based on sales made by Makita Japan to its wholly-owned U.S. subsidiary, Makita USA. Because Makita Japan's sales to the United States were all CEP sales made by an affiliated company, we considered only the parent company's selling activities reflected in the price after the deduction of expenses and profit, pursuant to section 772(d) of the Act, and determined that they were the same for all three reported channels of distribution. Therefore, we preliminarily determine that all CEP sales constitute a single LOT in the United States.

To determine whether sales in the comparison market were at a different LOT than CEP sales, we first compared the relevant selling functions performed in the different channels of distribution in the home market. We then examined the relevant selling functions performed at the CEP level and compared those selling functions to the selling functions performed in each home market LOT.

Makita Japan reported thirteen separate selling functions which it performed with respect to sales in the home market and five selling functions performed in the United States at the CEP level (see chart in Addendum 1 to Section A of Makita's October 26, 1998 questionnaire response). The home market selling functions are: (1) Inventory maintenance, (2) market research, (3) after sales service and warranties, (4) technical advice, (5) advertising, (6) R&D/product development, (7) freight/delivery arrangement, (8) procurement and sourcing, (9) competitive pricing (offering discounts, rebates, and other price incentives), (10) pricing negotiations with customers, (11) sales calls and demonstrations, (12) interaction with end users, and (13) processing of daily order updates.

In contrast, Makita Japan only performs the following selling functions in the U.S. market: (1) Inventory maintenance, (2) technical advice, (3) R&D/product development, (4) procurement and sourcing, and (5)

processing daily order updates. Thus, Makita Japan performs eight selling functions with respect to its home market channels of distribution that it does not perform in the U.S. market. (See, Makita Japan / Makita USA Sales and Cost Verification report dated July 9, 1999, at pages 24–33; hereafter “Sales Verification Report.”)

In comparing the two home market LOTs claimed by Makita (*i.e.*, wholesaler, subwholesaler or retailers), we noted that, although Makita Japan performs some of the same selling functions in both LOTs, the level of activities performed varies. For example, Makita Japan’s interaction with retailers is higher in the following sales functions than for wholesalers and subwholesalers: inventory maintenance, freight/delivery arrangements, and sales calls and demonstrations (see Sales Verification Report at pages 24–33). Therefore, we preliminarily determine that sales to wholesalers/subwholesalers and sales to retailers constitute separate LOTs.

When we compare the CEP LOT to either the home market wholesale LOT or the home market retail LOT, we note that there is only one selling function which is similar in both function and level of activity performed: R&D/product development (see Sales Verification Report at pages 31–33). We noted at verification that of the five selling functions performed in the United States, four of those functions involved substantially less selling activity than in the home market. For example, evidence reviewed at verification indicates that inventory maintenance is an important function in the home market, where products are frequently purchased (by both retailers and wholesalers/subwholesalers) directly from inventory. In contrast, we found at verification that inventory maintenance activities are minimal in the U.S. market, since production is primarily requested through specific purchase orders (*i.e.*, produced to order). Similarly, with respect to technical advice, procurement and sourcing, and processing of daily order updates, we found that Makita Japan performs more significant activities in the home market (for sales to both wholesalers and retailers) than in the U.S. market (see Sales Verification Report at pages 24–33). Based on our analysis of the selling functions, which include differences in levels of activity performed, we find that both home market LOTs are at a more advanced stage of distribution than that of the CEP level. Therefore, we agree with Makita Japan’s assertion that there is no home market level equivalent to the CEP LOT.

Based on our verification findings and the data on this record, the Department determines for the preliminary results that (1) significant differences exist in the selling functions associated with each of the two home market LOTs, and the CEP LOT, and (2) the CEP LOT is at a less advanced stage of distribution than either home market LOT. Because there is not a common LOT between the two home market and the CEP LOTs, we were unable to quantify a LOT adjustment in accordance with section 773(a)(7)(A) of the Act. Consequently, we have granted Makita’s request for a CEP offset adjustment in accordance with section 773 (a)(7)(B) of the Act (the CEP offset provision).

Constructed Export Price

We calculated CEP, in accordance with section 772(b) of the Act, because the sale to the first unaffiliated purchaser took place after importation to the United States. We based CEP on packed and delivered prices to all unaffiliated purchasers in the United States. Where appropriate, we added to the starting price revenues earned from drop-ship fees. Where appropriate, we made deductions from the starting price for discounts and rebates. We also made deductions, where appropriate, for movement expenses in accordance with section 772(c)(2)(A) of the Act. These expenses included foreign and U.S. inland freight, ocean freight, foreign and U.S. brokerage, and handling expenses.

In accordance with section 772(d)(1) of the Act, we deducted from CEP those direct and indirect selling expenses associated with Makita Japan’s economic activities occurring in the United States. These expenses included credit expenses, inventory carrying costs, and other indirect selling expenses. Finally, in accordance with section 772(d)(3) of the Act, we deducted from CEP an amount for profit.

Normal Value

1. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared Makita Japan’s volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because Makita Japan’s aggregate volume of home market sales of the foreign like

product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable, and, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like products were first sold for consumption in Japan.

2. Affiliated-Party Transactions and Arm’s-Length Test

It is the Department’s practice, in situations where home market sales are made to affiliated parties, to determine whether such sales to affiliated parties are appropriate to use as the basis for calculating NV (*i.e.*, whether such sales are made at arm’s-length prices). See *Final Results of Antidumping Duty Administrative Reviews, Partial termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders; Antifriction bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.*, 60 FR 10899, 10900 (February 28, 1995) and 19 CFR 351.403(c). To test whether Makita Japan’s sales to affiliated parties were made at arm’s-length prices, we compared, on a model-specific basis, prices of sales to its affiliated and unaffiliated customers at the same LOT net of all movement charges, direct selling expenses, discounts, and packing. Where, for the tested models, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm’s length. See *Final Results of Antidumping Duty Administrative Review; Certain Welded Carbon Steel Pipes and Tubes from Thailand*, 62 FR 5308, 53817 (October 16, 1997); 19 CFR 351.403(c); and *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27355 (May 19, 1997) (preamble to the Department’s regulations). In this instance all sales to affiliated parties passed the arm’s-length test.

3. Cost-of-Production Analysis

As we stated above in the *Case History* section, because we disregarded sales below the COP in the last completed segment of the proceeding (*i.e.*, the fourth administrative review), we had reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Makita Japan in the home market. We

conducted the COP analysis described below.

A. Calculation of COP

We calculated the COP based on the sum of Makita Japan's cost of materials and fabrication for the foreign like product, plus amounts for home market SG&A expenses and packing costs in accordance with section 773(b)(3) of the Act. We generally relied on the COP information provided by Makita Japan in its questionnaire responses. However, based on our verification findings, we adjusted the reported COP amounts to correct errors made in calculating cost of manufacturing ("COM"), including factory overhead expenses (see Sales Verification Report at page 5).

B. Test of Home Market Prices

We compared the weighted-average COP for Makita Japan, adjusted where appropriate, to home market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home market sales at prices below the COP, we examined (1) whether within an extended period of time, such sales were made in substantial quantities, and (2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, discounts and rebates.

C. Results of the COP Test

Pursuant to 773(b)(2)(C)(i) of the Act, where less than 20 percent of the respondent's sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that the below-cost sales are not being made in "substantial quantities." Where 20 percent or more of the respondent's sales of a given product during the POI are at prices less than the COP, we determine such sales to have been made in "substantial quantities" within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, because we are comparing prices to POR-average costs, we also determine that such sales are not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregard the below-cost sales.

In this case, we found that, for certain models of PECTs, more than 20 percent of Makita Japan's home market sales within an extended period of time were at prices less than the COP. Further, the prices did not provide for the recovery

of costs within a reasonable period of time. We therefore disregarded the below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1). For those U.S. sales of PECTs for which there were no comparable home market sales in the ordinary course of trade, we compared CEPs to constructed value ("CV") in accordance with section 773(a)(4) of the Act.

Calculation of CV

In accordance with section 773(e) of the Act, we calculated CV based on the sum of the Makita Japan's cost of materials, fabrication, SG&A (including interest expenses), U.S. packing costs, and profit. As noted above, we adjusted Makita Japan's COP by recalculating total COM, including factory overhead expenses (see Sales Verification Report at page 5).

In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by Makita Japan in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in Japan. We used the weighted-average home market selling expenses.

Price-to-Price Comparisons

We based NV on packed, delivered prices to unaffiliated home market customers and prices to affiliated customers that we have determined to be at arm's length. We made adjustments to the starting price for discounts and rebates, where appropriate. We also made deductions, where appropriate, for inland freight (i.e., plant to warehouse and warehouse to customer) pursuant to section 773(a)(6)(B) of the Act. In addition, we made adjustments for differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. We also deducted the home market direct selling expenses, including credit, in accordance with section 773(a)(6)(C)(iii) of the Act. Finally, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act.

For the reasons stated in the *LOT/CEP Offset* section of this notice and pursuant to section 773(a)(7)(B) of the Act, we have allowed a CEP offset for comparisons made at different levels of trade. To calculate the CEP offset, we deducted from NV the indirect selling expenses included on home market sales which were compared to CEP sales. We limited the home market indirect selling expense deduction by the amount of the indirect selling

expenses deducted in calculating the CEP under section 772(d)(1)(D) of the Act.

No other adjustments to NV were claimed or allowed.

Price-to-CV Comparisons

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. Where CV was compared to CEP, we deducted from CV the weighted-average home market direct selling expenses, including credit, in accordance with section 773(a)(6)(C)(iii) of the Act. Also, pursuant to section 773(a)(7)(B) of the Act, we made a CEP offset adjustment as described above in the *Price-to-Price Comparisons* section above.

Intent To Revoke

On July 24, 1998, Makita Japan requested that, pursuant to 19 CFR 351.222(b), the Department revoke the antidumping duty order in the above-referenced proceeding with respect to Makita Japan at the conclusion of this administrative review. Makita Japan submitted along with its revocation request a certification stating that: (1) the company sold subject merchandise at not less than NV during the POR, and that in the future it would not sell such merchandise at less than NV (see 19 CFR 351.222(e)(i)); (2) the company has sold the subject merchandise to the United States in commercial quantities during each of the past three years (see 19 CFR 351.222(e)(ii)); and (3) the company agrees to immediate reinstatement of the order, if the Department concludes that the company, subsequent to revocation, sold the subject merchandise at less than NV (see 19 CFR 351.222(b)(iii)).

The Department "may revoke, in whole or in part" an antidumping duty order upon completion of a review under section 751 of the Act. While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. This regulation requires, *inter alia*, that a company requesting revocation must submit the following: (1) a certification that the company has sold the subject merchandise at not less than NV in the current review period and that the company will not sell at less than NV in the future; (2) a certification that the company sold the subject merchandise in each of the three years forming the basis of the request in commercial quantities; and (3) an agreement to reinstatement of the order if the Department concludes that the company, subsequent to the revocation,

sold subject merchandise at less than NV. (See 19 CFR 351.222(e)(1).) Upon receipt of such a request, the Department may revoke an order, in part, if it concludes that: (1) The company in question has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) it is not likely that the company will in the future sell the subject merchandise at less than NV; and (3) the company has agreed to immediate reinstatement of the order if the Department concludes that the company, subsequent to the revocation, sold subject merchandise at less than NV. See 19 CFR 351.222(b)(2). See *Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke Order in Part: Pure Magnesium from Canada* ("Pure Magnesium"), 64 FR 12977, 12982 (March 16, 1999).

We allowed parties to comment on Makita Japan's request for revocation. Petitioner opposes the request for revocation, arguing that it is likely that Makita Japan will resume selling subject merchandise below NV if the order is revoked. Specifically, petitioner argues that Makita Japan has avoided dumping margins in the past by drastically reducing its import volumes, and Makita Japan's pricing practices and loss in market share indicate that Makita Japan is not able to compete effectively in the U.S. market without lowering prices. Additionally, petitioner argues that Makita Japan could easily expand its production capacity in Japan in order to begin selling at below NV in the future. Finally, petitioner purports that market demand in Japan is in decline, thereby increasing Makita's dependence on the U.S. market. As these comments and the relevant analysis require discussion of proprietary information, please see the *Memorandum Regarding Revocation of the Antidumping Duty Order on Professional Electric Cutting Tools from Japan* (August 2, 1999).

In response, Makita Japan argues that its sales have in fact been in commercial quantities, and that the record clearly indicates that it is not likely that Makita Japan will sell at below NV in the future if the order were revoked. In particular, Makita Japan argues that it has experienced a drastic change in circumstance as a result of the building of its U.S. manufacturing facility, where a majority of Makita Japan's electric cutting tools are now produced. Thus, Makita Japan stresses, most of its production of "subject merchandise" occurs in the United States, and consequently such products are no longer subject to the antidumping duty order. Makita Japan notes that it has

made substantial investment in the U.S. facility, and that maintaining the U.S. facility is consistent with the company's objective of producing in close proximity to its customers. Finally, Makita Japan states that, while it has expanding capacity in its U.S. production facility, it has limited remaining production capacity in its facilities in Japan. As such, Makita Japan claims that it is not likely that Makita Japan would ever shift production of its power tools back to Japan.

With regard to the market conditions and pricing levels, Makita Japan argues that it has no need to sell at below NV, because the U.S. electric power tool and electric cutting tool markets are healthy, growing, and stable, and the Japanese electric power tool market is relatively stable. Makita Japan further argues that it is able to charge premium prices because of its reputation for quality. Thus, Makita Japan contends, it can make sales in the U.S. market, even when its prices are higher than its competitors' prices. As these comments and the relevant analysis require discussion of proprietary information, please see the *Memorandum Regarding Revocation of the Antidumping Duty Order on Professional Electric Cutting Tools from Japan* (August 2, 1999).

Upon review of the three criteria outlined at section 351.222(b) of the Department's regulations, the comments of the parties, and all of the evidence in the record, we have preliminarily determined that the Department's requirements for revocation have been met. Based on the preliminary results in this review and the final results of the two preceding reviews, Makita Japan has preliminarily demonstrated three consecutive years of sales at not less than NV. Furthermore, we find that Makita Japan's aggregate sales to the United States have been made in commercial quantities during all segments of this proceeding. Finally, our review of the record and the comments of the parties indicates that it is not likely that Makita Japan will sell at below NV in the future.

First, although Makita Japan's sales to the United States have decreased substantially since the imposition of the antidumping order, its exports to the United States remain significant. Thus, regardless of any decrease in shipments during the course of this proceeding, Makita Japan is currently selling in commercial quantities. Additionally, Makita has maintained consistent sales levels since 1995. (See Sales Verification Report at pages 34-40, and Appendices 2 and 4 of Makita's March 15, 1999, submission). Based on these

facts (confirmed at verification) and our review of Makita Japan's sales practices, we find that we can reasonably conclude that the *de minimis* margins calculated for Makita Japan are reflective of the company's normal commercial experience. Compare *Pure Magnesium* 64 FR 12977, 12982 (March 16, 1999) (finding that because sales and volume figures were so small, both in absolute terms and in comparison with the period of investigation ("POI"), the Department could not conclude that the reviews were reflective of what the company's normal commercial experience would be without the discipline of an antidumping duty order); see also *Memorandum Regarding Revocation of the Antidumping Duty Order on Professional Electric Cutting Tools from Japan* (August 2, 1999), at 10-11.

With respect to whether it is not likely that Makita Japan will in the future sell merchandise at less than NV, we have considered various factors. As we stated in *Brass Sheet and Strip from Germany, Final Results of Antidumping Administrative Review and Determination to Revoke in Part*, 61 FR 49728, 49731 (Sept. 23, 1996), "[i]n prior cases where revocation was under consideration and the likelihood of resumption of dumped sales was at issue, the Department has considered, in addition to the respondent's prices and margins in the preceding periods, 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 also *Brass Sheet and Strip from Canada: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Revoke Order in Part*, 63 FR 6519, 6523 (Feb. 9, 1998).

Based upon the relevant factors in this case, we find that it is not likely that Makita Japan will sell at less than NV if the order is revoked. First, the record indicates that the electric power tool industry, including PECTs, in the United States and around the world is stable and/or growing, as applicable (see Sales Verification Report at pages 34-39; the July 13, 1999, Makita Corporation of America ("MCA") verification report at pages 14; Makita's February 9, 1999, submission at pages 33-42; and *Memorandum Regarding Revocation of the Antidumping Duty Order on Professional Electric Cutting Tools from Japan* (August 2, 1999), at 14-15). Thus, the price stability characteristic of the electric power tool industry mitigates against the heightened possibility of dumping, as

compared to other industries where market prices are volatile.

Second, with regard to capacity utilization, the record establishes that Makita Japan has very limited remaining capacity in its Japanese facilities, while it has significant (and growing) remaining capacity at MCA. Makita has made significant investments in its U.S. facility, and all evidence in the record indicates that MCA intends to produce PECTs in the United States for the long-term. The majority of the cutting tools sold by Makita USA is now being produced in the United States. Moreover, as confirmed at verification, Makita Japan has never shifted production of any tool from MCA back to Japan. Additionally, Makita Japan is currently producing only specialty tools for export to the U.S. market, and there is no evidence on the record indicating that it would be economically advantageous for Makita to shift existing production in Japan, which is primarily geared toward production for the home market, to production of non-specialty tools for export to the United States.

Third, with respect to specialty tools (imports from Makita Japan), Makita has consistently priced its products higher than its competition in the United States. Thus, the record indicates that Makita has not needed to lower prices of its Japan-produced tools in order to remain competitive or to maintain a consistent level of sales (i.e., quantity). Although Makita has lost U.S. market share in recent years, it has maintained consistent annual sales in significant quantities.

Based upon these factors, and other proprietary information discussed in the *Memorandum Regarding Revocation of the Antidumping Duty Order on Professional Electric Cutting Tools from Japan* (Aug. 2, 1999), at 11–16, we find that it is not likely that Makita will sell at less than NV in the future.

Because all three requirements under the regulation have been satisfied, we preliminarily intend to revoke the antidumping duty order with respect to Makita Japan. If these preliminary findings are affirmed in our final results, we intend to revoke the order with respect to all PECTs produced by Makita Japan and that are also exported by Makita Japan. In accordance with 19 CFR 351.222 (f)(3), we will terminate the suspension of liquidation for any such merchandise entered, or withdrawn from warehouse, for consumption on or after the first day after the period under review, and will instruct Customs to refund any cash deposit.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following margin exists for the period July 1, 1997—June 30, 1998:

Manufacturer/exporter	Margin (percent)
Makita Corporation	0.07 (<i>de minimis</i>).

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter.

Issues raised in hearings will be limited to those raised in the respective case briefs and rebuttal briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than 30 days and 37 days, respectively, from the date of publication of these preliminary results. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations and cases cited.

The Department will subsequently issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B-099, within 30 days of the date of publication of this notice. Request should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed.

Cash Deposit and Assessment Requirements

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisal instructions directly to the Customs Service. If these preliminary results are adopted in our final results, we will instruct the Customs Service liquidate all entries subject to this review without regard to antidumping duties.

If these preliminary results are not adopted in the final results, we will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rates calculated in the final results of this review are above *de minimis* (i.e., at or above 0.5 percent). For assessment purposes, we intend to calculate importer-specific assessment rates for the subject merchandise by aggregating the antidumping duty margins calculated for all U.S. sales examined and dividing the amount by the total entered value of the sales examined.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of PECTs from Japan that are entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(c) of the Act: (1) No cash deposit will be required for PECTs from Japan that are produced by Makita Corporation and that are also exported by Makita Corporation (unless the margin established for the company in the final results of this review is above *de minimis*); (2) for previously reviewed or investigated companies noted 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, a prior review, or the less-than-fair-value ("LTFV") investigation, 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) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 54.5 percent, the "All Others" rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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 administrative review and notice are in accordance with sections 751(a)(1) of the Act and 19 CFR 351.213.

Dated: August 2, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99-20560 Filed 8-9-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Board of Overseers of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Request for nominations of members to serve on the Board of Overseers of the Malcolm Baldrige National Quality Award.

SUMMARY: NIST invites and requests nomination of individuals for appointment to Board of Overseers of the Malcolm Baldrige National Quality Award (Board). The terms of some of the members of the Board will soon expire. NIST will consider nominations received in response to this notice for appointment to the Committee, in addition to nominations already received.

DATES: Please submit nominations on or before August 27, 1999.

ADDRESSES: Please submit nominations to Harry Hertz, Director, National Quality Program, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899-1020. Nominations may also be submitted via FAX to 301-948-4-3716. Additional information regarding the Committee, including its charter, current membership list, and executive summary may be found on its electronic home page at: <http://www.quality.nist.gov>.

FOR FURTHER INFORMATION CONTACT: Harry Hertz, Director, National Quality Program and Designated Federal Official, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899-1020, telephone 301-975-2361, FAX-301-948-3716; or via e-mail at harry.hertz@nist.gov.

SUPPLEMENTARY INFORMATION:

1. Board of Overseers of the Malcolm Baldrige National Quality Award Information

The board was established in accordance with 15 U.S.C. 3711a(d)(2)(B), pursuant to the Federal

Advisory Committee Act (5 U.S.C. app. 2).

Objectives and Duties

1. The Board shall review the work of the private sector contractor(s), which assists the Director of the National Institute of Standards and Technology (NIST) in administering the Award. The Board will make such suggestions for the improvement of the Award process as it deems necessary

2. The Board shall provide a written annual report on the results of Award activities to the Director of NIST, along with its recommendations for the improvement of the Award process.

3. The Board will function solely as an advisory committee under the Federal Advisory Committee Act.

4. The Board will report to the Director of NIST.

Membership

1. The Board will consist of approximately eleven members selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance, and for their preeminence in the field of quality management. There will be a balanced representation from U.S. service and manufacturing industries, education and health care. The Board will include members familiar with the quality improvement operations of manufacturing companies, service companies, small businesses, education, and health care. No employee of the Federal Government shall serve as a member of the Board of Overseers.

2. The Board will be appointed by the Secretary of Commerce and will serve at the discretion of the Secretary. The term of office of each Board member shall be three years. All terms will commence on January 1 and end on December 31 of the appropriate year.

Miscellaneous

1. Members of the Board shall serve without compensation, but may, upon request, be reimbursed travel expenses, including per diem, as authorized by 5 U.S.C. 5701 et seq.

2. The Board will meet annually, except that additional meetings may be called as deemed necessary by the NIST Director or by the Chairperson. Meetings are one to two days in duration.

3. Board meetings are open to the public. Board members do not have access to classified or proprietary information in connection with their Board duties.

II. Nomination Information

1. Nominations are sought from the private sector as described above.

2. Nominees should have established records of distinguished service and shall be familiar with the quality improvement operations of manufacturing companies, service companies, small businesses, education, and health care. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the person agrees to the nomination acknowledge the responsibilities of serving on the Board, and will actively participate in good faith in the tasks of the Board. Besides participation at meetings, it is desired that members be able to devote the equivalent of seven days between meetings to either developing or researching topics of potential interest, and so forth, in furtherance of their Board duties.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Board membership.

Dated: August 4, 1999.

Karen H. Brown,

Deputy Director.

[FR Doc. 99-20569 Filed 8-9-99; 8:45 am]

BILLING CODE 3510-13-M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Judges Panel of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Request for nominations of members to serve on the Judges Panel of the Malcolm Baldrige National Quality Award.

SUMMARY: NIST invites and requests nomination of individuals for appointment to the Judges Panel of the Malcolm Baldrige National Quality Award (Judges Panel). The terms of some of the members of the Judges Panel will soon expire. NIST will consider nominations received in response to this notice for appointment to the Committee, in addition to nominations already received.