UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-570-033
Investigation
Public Document
E&C/VIII: BCS/RJ

December 8, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Large Residential Washers from the People's Republic of China: Issues and Decision Memorandum for the Final Determination

I. SUMMARY

We analyzed the comments of the interested parties in the *Preliminary Determination*[1] of the less-than-fair-value (LTFV) investigation of certain large residential washers (LRWs) from the People's Republic of China (PRC). As a result of our analysis, and based on our findings at verification, we made changes to the margin calculations for Nanjing LG-Panda Appliances Co., Ltd. and LG Electronics USA, Inc. (collectively, LG), and for Suzhou Samsung Electronics Co., Ltd. and Suzhou Samsung Electronics Co. (collectively, Samsung). We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is a complete list of the issues in this LTFV investigation for which we received comments from interested parties:

General

1. Critical Circumstances
2. Differential Pricing and Use of Average-to-Average Comparisons
3. Differential Pricing and Use of "Zeroing"
4. Scope – Subassemblies and Cabinet Portions
5. Scope – Pedestal Washers
6. Use of Acquisition Costs for Surrogate Value Selection
7. Use of Subheading 8450.90 to Value Certain Parts
8. Surrogate Financial Ratios

[1] *See Large Residential Washers from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, In Part, and Postponement of Final Determination*, 81 FR 48741 (July 26, 2016) (*Preliminary Determination*).

9. Factors of Production Underreporting

Samsung

10. Seven Assembled Parts Containing Multiple Materials
11. Tub Parts
12. Assembly S. Panel Control
13. Weight Balancer (also known as Concrete Counterweight)
14. Drain Pump Assembly
15. Thermistors and Thermistor Assemblies, Pressure Sensors and MEMS Sensors
16. Motor Drain Clutch
17. Assembly Hinge
18. Assembly Hose Circulation
19. Flange Shaft Spider
20. Inlay Panel
21. Tapping Screws
22. Warranty Expenses
23. Corrections from Verification
24. Programming Clerical Error in the Preliminary Determination

LG

25. Motor and Pump Assembly
26. Water Level Controller Assembly
27. Temperature Sensor
28. Printed Circuit Boards (PCBs)
29. Top Load Aluminum Inner Tub Base
30. Hose Assembly
31. Electrical Connector
32. Rubber Gasket
33. Washer Door Hinge Assembly
34. Shaft Housing Assembly
35. Microswitches
36. Brackets
37. Concrete Counterweights
38. By-Product Scrap
39. Steel Wire Clamps
40. Tapping Screw
41. Washer Mixed Trim Piece, Washer Trim Piece, and Trim Piece
42. Leaf Spring and Leaf Hinge Spring
43. Metal Nameplate
44. Carbon Film Resistor
45. Check Valve
46. Thinner
47. Owner's Manual Package
48. Cold Rolled Steel (51mm x 1mm)
49. Galvanized Steel Coil (Greater Than 600mm)
50. Steel Cold-Rolled Carbon Sheet Hot Dipped Galvanized (540mm x 0.4mm x 380.7 and

526mm x 0.4mm x 575)
51. Steel Cold-Rolled Stainless Sheet Uncoated (645mm x 0.6mm x 645; 685mm x 0.6mm x 685; 720mm x 1mm x 720; and 700mm x 0.5mm x 700)
52. Stainless Steel Coil (365mm x 0.5mm)
53. U.S. Indirect Selling Expense Ratio Expense Calculation
54. Commissions on Rebates
55. Warranty Expenses
56. Corrections from Verification
57. Programming Clerical Errors in the Preliminary Determination

II. BACKGROUND

On July 26, 2016, the Department of Commerce (Department) published the *Preliminary Determination* of sales of LRWs from the PRC at LTFV. We invited parties to comment on the *Preliminary Determination*.

On July 26, 2016, Samsung made an allegation of ministerial errors in the *Preliminary Determination*.[2] On August 11, 2016, we determined that, while we made certain ministerial errors, they were not "significant" under 19 CFR 351.224(g), and thus did not require that we amend the *Preliminary Determination*.[3] We conducted verification of LG's and Samsung's factors of production and sales responses in August and September, 2016[4]. On October 20, 2016, we extended the case and rebuttal brief schedule established in the *Preliminary Determination*. On August 4, 2016, the petitioner[5] requested a hearing. The petitioner and the respondents filed case briefs on October 26, 2016,[6] and rebuttal briefs on November 2, 2016.[7] On November 15, 2016, we held a public hearing.[8]

[2] *See* Letter from Samsung, "Large Residential Washers from the People's Republic of China: Ministerial Error Comments," dated July 26, 2016.
[3] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Ministerial Error Allegations in the Preliminary Determination," dated August 11, 2016.
[4] *See* Memorandum to the File from Brian Smith and Brandon Custard, Senior International Trade Compliance Specialists, "Verification of the Questionnaire Responses of Nanjing LG-Panda Appliances Co., Ltd. in the Antidumping Investigation of Large Residential Washers from the People's Republic of China (PRC)," dated October 5, 2016 (LG FOP Verification Report); Memorandum to the File from David Goldberger and Kate Johnson, Senior International Trade Compliance Specialists, "Verification of the CEP Sales Response of Nanjing LG-Panda Appliances Co., Ltd. and LG Electronics USA, Inc.," dated October 6, 2016 (LG CEP Verification Report); Memorandum to the File from Brian Smith and Brandon Custard, Senior International Trade Compliance Specialists, "Verification of the Questionnaire Responses of Suzhou Samsung Electronics Co., Ltd. (SSEC) and Suzhou Samsung Electronics Co., Ltd. – Export (SSEC) (collectively Samsung) in the Antidumping Investigation of Large Residential Washers (LRWs) from the People's Republic of China (PRC)," dated October 7, 2016 (Samsung FOP Verification Report); and Memorandum to the File from Kate Johnson and David Goldberger, Senior International Trade Compliance Specialists, "Verification of the CEP Sales Response of Suzhou Samsung Electronics Co., Ltd., Suzhou Samsung Electronics Co., Ltd. – Export, and Samsung Electronics America, Inc.," dated October 14, 2016 (Samsung CEP Verification Report).
[5] The petitioner is Whirlpool Corporation (Whirlpool).
[6] *See* "Large Residential Washers from China: Petitioner's Case Brief," dated October 26, 2016 (Whirlpool's Case Brief); "LGE's Antidumping Case Brief: Investigation of Large Residential Washers from China," dated October 26, 2016 (LG's Case Brief); *and* "Large Residential Washers from the People's Republic of China: Samsung's Case Brief," dated October 26, 2016 (Samsung's Case Brief).
[7] *See* "Large Residential Washers from China: Petitioner's Rebuttal Brief," dated November 2, 2016 (Whirlpool's Rebuttal Brief); "LGE's Antidumping Rebuttal Brief: Investigation of Large Residential Washers from China,"

Based on our analysis of the comments received and our verification findings, for this final determination we have revised the weighted-average dumping margins for LG, Samsung, and the PRC-wide entity.

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is April 1, 2015, through September 30, 2015. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, which was December 2015.

IV. SCOPE COMMENTS

In the *Preliminary Determination*, we stated that we would request that the petitioner provide further clarification with respect to the "portions" of cabinet subassemblies that are covered by the scope for consideration in the final determination. On October 6, 2016, the petitioner submitted the requested clarification. For a full discussion of all scope comments under consideration for the final determination, *see* Comments 4 and 5, below.

V. SCOPE OF THE INVESTIGATION

The products covered by this investigation are all large residential washers and certain parts thereof from the People's Republic of China.

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

Also covered are certain parts used in large residential washers, namely: (1) all cabinets, or portions thereof, designed for use in large residential washers; (2) all assembled tubs designed for use in large residential washers which incorporate, at a minimum: (a) a tub; and (b) a seal; (3) all assembled baskets designed for use in large residential washers which incorporate, at a minimum: (a) a side wrapper; (b) a base; and (c) a drive hub; and (4) any combination of the foregoing parts or subassemblies.

Excluded from the scope are stacked washer-dryers and commercial washers. The term "stacked washer-dryers" denotes distinct washing and drying machines that are built on a unitary frame and share a common console that controls both the washer and the dryer. The term "commercial washer" denotes an automatic clothes washing machine designed for the "pay per use" segment meeting either of the following two definitions:

---

dated November 2, 2016 (LG's Rebuttal Brief); and "Large Residential Washers from the People's Republic of China: Samsung Rebuttal Brief," dated November 2, 2016 (Samsung's Rebuttal Brief).

[8] *See* Submission of Neal R. Gross and Co., Transcript of Public Hearing, filed November 22, 2016.

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

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

Also excluded from the scope are automatic clothes washing machines that meet all of the following conditions: (1) have a vertical rotational axis; (2) are top loading; (3) have a drive train consisting, inter alia, of (a) a permanent split capacitor (PSC) motor, (b) a belt drive, and (c) a flat wrap spring clutch.

Also excluded from the scope are automatic clothes washing machines that meet all of the following conditions: (1) have a horizontal rotational axis; (2) are front loading; and (3) have a drive train consisting, inter alia, of (a) a controlled induction motor (CIM), and (b) a belt drive.

Also excluded from the scope are automatic clothes washing machines that meet all of the following conditions: (1) have a horizontal rotational axis; (2) are front loading; and (3) have cabinet width (measured from its widest point) of more than 28.5 inches (72.39 cm).

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

VI. MARGIN CALCULATIONS

We calculated constructed export price (CEP) and normal value (NV) using the same methodology stated in the *Preliminary Determination*, except as follows:[9]

[9] *See* Memorandum to the File, "Final Determination Margin Calculation for Nanjing LG-Panda-Appliances Co., Ltd. (LG)," dated December 8, 2016 (LG Final Calculation Memorandum); Memorandum to the File, "Final Determination Margin Calculation for Suzhou Samsung Electronics Co., Ltd. and Suzhou Samsung Electronics Co., Ltd.-Export (Samsung)," dated December 8, 2016 (Samsung Final Calculation Memorandum); Memorandum to the File, "Factor Valuation Memorandum for the Final Determination of the Less Than Fair Value Investigation of

- We used updated U.S. sales and factors of production databases for both LG and Samsung based on our verification findings. *See* Comments 23 and 56.

- We made changes to our surrogate value (SV) selections for certain part numbers for both LG and Samsung. *See* Comment 10 (Samsung's assembly basket spins, assembly basket bowls, assembly semi-cover tops, assembly lids, assembly pulsators, assembly bases, assembly housing drawers); Comment 11 (Samsung's basket wrappers, drum wrappers, drum backs, drum fronts); Comment 12 (Samsung's assembly panel control covers); Comment 13 (Samsung's weight balancers); Comment 14 (Samsung's drain pump assemblies); Comment 15 (Samsung's thermistors, thermistor assemblies, and pressure sensor); Comment 16 (Samsung's motor drain clutch); Comment 17 (Samsung's assembly hinges); Comment 18 (Samsung's assembly hose circulations); Comment 19 (Samsung's flange shaft spiders); Comment 20 (Samsung's inlay panel); Comment 21 (Samsung's tapping screws); Comment 25 (LG's motors and drain pump assemblies); Comment 26 (LG's water level controller assembly); Comment 27 (LG's temperature sensor); Comment 28 (LG's printed circuit boards); Comment 29 (LG's top load aluminum inner tub base); Comment 30 (LG's hose assemblies); Comment 31 (LG's electrical connectors); Comment 33 (LG's washer door hinge assemblies); Comment 35 (LG's microswitches); Comment 36 (LG's brackets); Comment 37 (LG's weight balancers); Comment 38 (LG's steel and stainless steel scrap); Comment 39 (LG's steel wire clamps); Comment 40 (LG's tapping screws); Comment 41 (LG's washer trim pieces); Comment 42 (LG's leaf spring and leaf hinge spring); Comment 43 (metal nameplates); Comment 45 (LG's check valve); Comment 47 (LG's owner's manual); Comment 49 (LG's galvanized steel coil greater than 600 mm); Comment 50 (two types of LG's steel cold-rolled carbon sheet hot dipped galvanized); Comment 51 (four types of LG's steel cold-rolled stainless steel sheet uncoated); and Comment 52 (one type of LG's stainless steel coil).

- We included packing labor in the NV calculations for both LG and Samsung. *See* Comments 24 and 57.

- We revised LG's reported U.S. indirect selling expenses. *See* Comment 53.

- We corrected typographical errors with respect to SVs in LG's SV database. *See* Comment 57.

For any additional changes made to either respondent's data used in the final determination, see the calculation memorandum and SV memorandum for each respondent.

Large Residential Washers from the People's Republic of China for Suzhou Samsung Electronics Co., Ltd. and Suzhou Samsung Electronics Co., Ltd. – Export" (collectively Samsung), dated December 8, 2016; and Memorandum to the File, "Factor Valuation Memorandum for the Final Determination of the Less-Than-Fair-Value Investigation of Large Residential Washers from the People's Republic of China for Nanjing LG-Panda-Appliances Co., Ltd. (LG)," dated December 8, 2016.

VII. DISCUSSION OF THE ISSUES

General Issues

Comment 1: Critical Circumstances

Whirlpool's Case Brief:

- The Department should continue to find that critical circumstances exist with respect to Samsung and the PRC-wide entity. The Department correctly determined that Samsung's imports during the comparison period were "massive" in comparison to the base period, pursuant to 19 CFR 351.206(h).
- Samsung engaged in a concerted effort to "stockpile" LRWs upon learning of the pendency of an antidumping duty petition, increasing its shipments of LRWs to ensure their arrival in the United States before the *Preliminary Determination*.
- The Department, however, should not include the latest month's shipment data, for July 2016, in the comparison period. Given the time required to ship LRWs to the United States, Samsung consciously cut back its shipments in July 2016 to ensure its washers entered prior to the imposition of provisional measures. Accordingly, in this case the Congressional intent behind the critical circumstances provision suggests that the Department should continue to use a base period of July through December, 2015 and a comparison period of January through June 2016.
- Adding July 2016 shipment data to the comparison period would mask Samsung's post-petition surge, "a perverse result that rewards Samsung for its stockpiling strategy."
- The object and purpose of the critical circumstances provision indicates that the primary focus in any critical circumstances analysis is whether any eventual order's effectiveness would be undermined by increased imports prior to the *Preliminary Determination.*
- Use of the "most" data available (*i.e.*, including July 2016) is not required by the statute, regulations or past Department practice, which traditionally used three-month base and comparison periods. At a minimum, the July 2016 shipment data for Samsung are aberrational, as they do not reflect Samsung's normal commercial behavior.

Samsung's Case Brief

- Critical circumstances do not exist in this case and the Department should reverse its preliminary critical circumstances determination.
- The statute, the Statement of Administrative Action and the World Trade Organization (WTO) Antidumping Agreement at Article 10.6, all direct the Department to consider *imports* and not *shipments*; the relevant import data do not support a finding that imports were "massive." This focus on imports is explicit in the statutory language, meaning there is no "gap" in the statute that the Department may fill at its discretion.
- Using import data, rather than shipment data, the 15 percent threshold for finding imports to be "massive" is not met.
- Irrespective of relying on import or shipment data, the 15 percent threshold is not met when including the data for July 2016 in the comparison period. Given the timing of the *Preliminary Determination* (published July 27, 2016), the Department's practice would include the July, 2016 shipment data in the comparison period; this would attenuate any

affirmative finding of critical circumstances, as the massive imports criterion would not be met.

Whirlpool's Rebuttal Brief

- Samsung's arguments against the preliminary finding of critical circumstances are unavailing.
- Samsung's singular focus on imports is designed to mask the massive number of LRWs it shipped to evade antidumping duty liability. The Department's use of shipment data was a proper exercise of the agency's discretion.
- The Department long ago determined that the use of shipment data comported with Congressional intent. In fact, the use of shipment data was specifically mentioned in the Senate Report accompanying the Uruguay Round Agreements Act.[10] Moreover, the Department's practice in this regard dates back far enough to be considered Congressionally ratified.[11] Samsung has cited no authority for its proposition that "massive imports" only involve consideration of entries into the United States.
- Use of Samsung's import data for the critical circumstances determination would be inconsistent with the Department's use of shipment data for the other mandatory respondent, LG.
- Samsung is a "serial dumper" of LRWs; Samsung ramped up its shipments of finished LRWs and also resisted the Department's explicit requests that it report shipment data. Further, it is moving its assembly operations offshore to evade antidumping liability on LRWs from China. A failure to provide retroactive relief in this case will deny Whirlpool the only remedy available to it under U.S. law.
- Samsung fails to set forth any legal argument that the Department must use the longest base and comparison periods in its critical circumstances determination (*i.e.*, to include the July 2016 shipment data). In contrast, Whirlpool in its case brief detailed the legal framework for the Department's broad discretion in determining the periods of time to be used in these determinations.
- Even if the Department includes the July, 2016 data, seasonality in the home appliance industry will come into play.[12] Comparing Samsung's shipments in January through July 2016 to the same period of 2015 reveals "massive imports" during 2016, warranting a finding of critical circumstances.

Samsung's Rebuttal Brief

- It is the Department's normal practice to examine the longest base and comparison periods permitted by the available data. Under that principle, Samsung's imports in the comparison period were not massive, and the preliminary finding of critical circumstances must be overturned.
- Whirlpool has cited no relevant Departmental or Congressional intent for truncating the two periods; in fact, Whirlpool earlier acknowledged the preference to examine all available data addressing the period *prior* to the *Preliminary Determination.*

---

[10] *See* Whirlpool's Rebuttal Brief at 3 (citing Sen. Rep. 103-412 (1994) at 38, 103d Cong, 2d Sess., 1994).
[11] *Id.* at 6 (citing *Lorilard v. Pons*, 434 U.S. 575, 580 (1978).
[12] *Id.* at 11 (citing *Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea*, 76 FR 67675 (November 2, 2011) (*Bottom Mount Refrigerators*)).

- Samsung properly sought to avoid the retroactive application of antidumping liability by reducing its shipments of LRWs in the month before the *Preliminary Determination*.
- The Department must use *import* data and not *shipment* data in reaching its critical circumstances determination.

Department's Position:

In examining whether imports were massive, the Department compares data reported by the respondents during a period preceding the filing of the petition with an equal period of time following the filing of the petition.[13] We have included Samsung's July 2016 shipment data in our final critical circumstances analysis. This is consistent with our long-established practice to use all available shipment data in reaching critical circumstances determinations.[14] The regulation at 19 CFR 351.206(i) defines a "relatively short period" as being *"at least"* three months in duration (emphasis added). However, this minimum duration does not constrain the Department from considering longer periods. Consistent with our practice, where the available data permit an examination of a longer period, as is the case here, we are using those data.

We disagree with Whirlpool's argument that a seasonality analysis in this case is appropriate. As an initial matter, the case Whirlpool relies upon, *Bottom Mount Refrigerators*, involved an analysis of three years of data, comparing these data to the comparison period of January through July 2011. In that case, we did find "a consistent pattern of seasonality evidenced by a significant increase in shipments during quarters 2 and 3, in comparison to quarters 1 and 4. However, this finding *did not* support a finding of massive imports.[15] Here, Whirlpool has selectively compared seven months of shipments in 2015 to seven months of shipments in 2016. These data do not permit an accurate assessment of seasonality. Rather, a year-on-year drop in shipments for a portion of the year may be attributable to variations in demand occasioned by an improving or declining economy, the number of new housing construction starts or any number of reasons unrelated to seasonal trends in shipments.

More fundamentally, Whirlpool has not cited any reference or case precedent for ignoring record evidence that has been verified, and we disagree with Whirlpool's contention that the purpose of the critical circumstances provisions suggest that the Department should disregard the July 2016 data. The Department's analysis of whether there have been massive imports is consistent with past-practice and included all verified shipment data on the record, including the July 2016 data. Accordingly, for the final determination, our base period is June-December 2015, while our comparison period is January-July 2016. As a result, the critical circumstances determination for Samsung is now negative as imports during the comparison period did not increase 15 percent or more, as required by 19 CFR 351.206(h)(2).[16] Furthermore, in light of this negative

---

[13] *See* 19 CFR 351.206(h).

[14] *See, e.g., Certain Cold-Rolled Steel Flat Products from the Russian Federation: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 49950 (July 19, 2016); *see also Certain Color Television Receivers from the People's Republic of China*, 69 FR 20594 (April 16, 2004) at Comment 3.

[15] *See Bottom Mount Refrigerators* at 67687.

[16] *See* Memorandum to the File from Brian C. Smith, "Final Critical Circumstances Analysis," dated December 8, 2016. For the PRC-wide entity, because there are no non-cooperative exporters of the subject merchandise in this investigation and we are determining the PRC-wide rate based on the average of the margins calculated for LG and Samsung , we are basing our massive imports analysis on the experience of these two respondents. Because neither

determination, we find Samsung's arguments with respect to the use of import data over shipment data to be moot.

Comment 2: Differential Pricing and Use of Average-to-Average Comparisons

Samsung's Case Brief

- While noting that in the *Preliminary Determination*, the Department found 44.91 percent, by value, of Samsung's sales passed the Cohen's *d* test, the Department also concluded there was no meaningful difference between the margin determined using the standard average-to-average (A-to-A) methodology and the margin using an alternative method, such as average-to-transaction (A-to-T) comparison.
- The Department should continue to rely upon the A-to-A method for the final determination in this investigation.
- A WTO dispute settlement panel expressly held that the Department's differential pricing test was in violation of the Antidumping Agreement because it found "patterns" based on "random and unrelated price variations."[17]
- Rather than cling to a practice the WTO has already found inconsistent with the antidumping duty (AD) Agreement, the Department should find there is no pattern of export prices which differ significantly and, accordingly, should continue applying the A-to-A methodology.

Whirlpool's Rebuttal Brief

- As an initial matter, given that the A-to-A methodology was adequate to measure the respondents' margins of dumping, the comments raised are "irrelevant." The Department has no reason to alter its standard margin calculation program for the final determination.
- As to the respondents' reliance on WTO dispute settlement panel decisions, these decisions "are without effect under U.S. law unless and until they are implemented." To date, Congress has not done so.

Department's Position:

As Samsung notes, the Department preliminarily found that the results of the differential pricing test did not support the use of an alternative to the average-to-average method.[18] These results remain unchanged in the final determination.[19] As we have not deviated from our standard A-to-A methodology, Samsung's argument is moot.

Regarding Samsung's reliance on *LRWs from Korea*, as a general matter, the Court of Appeals for the Federal Circuit has held that WTO reports are without effect under U.S. law "unless and until such {a report} has been adopted pursuant to the specified statutory scheme."[20] Indeed, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act noted

---

LG nor Samsung meet the massive imports prong of our critical circumstances analysis, we find that the PRC-wide entity likewise does not meet that prong. Accordingly, our critical circumstances determination for the PRC-wide entity is now negative as well.

[17] *See* Samsung's Case Brief at 105 (citing *United States – Antidumping and Countervailing Duty Measures on Large Residential Washers from Korea*, WT/DS464/AB/R (September 26, 2016) (*LRWs from Korea*)).

[18] *See* Preliminary Determination Margin Calculation for Suzhou Samsung Electronics Co., Ltd. and Suzhou Samsung Electronics Co. Ltd.-Export (Samsung) at 4.

[19] *See* LG Final Calculation Memorandum and Samsung Final Calculation Memorandum.

[20] *See, e.g., Corus Staal BV v. United States*, 395 F.3d 1343 (Fed. Cir. 2005).

that "WTO dispute settlement panels will have no power to change U.S. law or order such a change. Only Congress and the Administration can decide whether to implement a WTO panel recommendation and, if so, how to implement it."[21] In any case, as explained above, in this investigation, the Department is continuing to apply the standard A-to-A comparison method for Samsung.

Comment 3: Differential Pricing and Use of "Zeroing"

LG's Case Brief

- The Department continues to assert its authority to employ its differential pricing analysis, including in certain circumstances, denying offsets for negative margins (*i.e.*, "zeroing"). While the Department did not employ an alternative methodology (A-to-T) with zeroing to LG in the *Preliminary Determination*, it is possible the Department may make changes to the final determination that alter its preliminary differential pricing analysis.
- Where the Department finds 33 percent or more of sales pass the Cohen's *d* test, it considers whether an alternative methodology (A-to-T) is appropriate that would include the use of zeroing. This practice runs counter to a long line of WTO precedent on this issue.
- The WTO has held that any determination of dumping must apply to the product as a whole, and not to any subset of the merchandise under investigation.[22]
- The WTO examined this very issue in *LRWs from Korea,* finding the Department's practice of denying offsets in certain circumstances to be WTO-inconsistent "as such." [23]
- U.S. courts, including the Court of Appeals for the Federal Circuit (Federal Circuit), have held that the Department is not obliged to employ zeroing; accordingly, the Department should align its practice with the United States' WTO obligations.
- In cases where a mixed methodology of A-to-A and A-to-T is used (*i.e.*, when between 33 and 66 percent of sales meet the differential pricing criteria), current SAS coding effectively calculates two margins: one for the sales meeting the differential pricing criteria, where zeroing is employed, and a separate one for the sales not meeting the differential pricing criteria. These margins are later merged to generate a single weighted-average margin.
- However, if the latter margin, that for sales not meeting the differential pricing criteria, is negative, no offset is permitted for the margin calculated on sales that do satisfy the differential pricing criteria. This is a *de facto* use of zeroing and should be abandoned.

Samsung's Case Brief

- Consistent with the WTO's findings in *LRWs from Korea,* the Department must abandon its practice of using zeroing when certain criteria are met, as the practice has been found to be WTO-inconsistent.

---

[21] *See* Statement of Administrative Action accompanying the Uruguay Round Agreement Act, H. Doc. No. 316, 103d Cong., 2d Session (1994) (SAA).

[22] *See* LG's Case Brief at 90 (citing *European Communities – Antidumping Duties on Imports of Cotton-type Bed Linen from India,* DS141 (April 24, 2003), and *Final Dumping Determination on Softwood Lumber from Canada,* DS264 (October 12, 2006)).

[23] *Id.*(citing *LRWs from Korea*).

Whirlpool's Rebuttal Brief

- As noted above, Whirlpool believes the parties' comments on differential pricing are irrelevant. The WTO decision in *LRWs from Korea* is in no way binding upon the Department, absent Congressional or Executive branch measures to implement it, which has not occurred in this case.
- Zeroing is perfectly legal under U.S. law. The Federal Circuit explicitly held that the Department may use zeroing "for combatting targeted or masked dumping."[24] The Department properly does not permit non-dumped transactions to offset the margins on dumped transactions whenever a pattern of significant price differences among customers, regions or periods is established.

Department's Position:

For the reasons noted *supra* in Comment 2, with respect to the use of alternative comparison methodologies, we find LG's and Samsung's comments are moot. In this investigation we are employing our standard average-to-average methodology for both LG and Samsung, which does not involve the use of "zeroing." As zeroing is not at issue in this investigation, we need not further address the respondents' arguments.

Comment 4: Scope – Subassemblies and Cabinet Portions

LG's Case Brief

- The Department should clarify the scope of the investigation. Whirlpool failed to demonstrate either before the Department or the International Trade Commission that it was injured in any way by imports of subassemblies, including cabinet portions. Accordingly, the Department should exclude such subassemblies when imported for repair purposes.
- Whirlpool does not currently, nor will it ever, produce these subassemblies for repair of LG or Samsung LRWs.
- The scope should be amended to exclude subassemblies dedicated for use in repairing subject LRWs. The Korean respondents and domestic producers of LRWs do not compete in this rather small segment of the market.
- If the Department fears respondents will import parts for assembly in the United States, there are simple means of enforcing any order ranging from a declaration from the importer that the subassemblies are for repair purposes to advance notification from Chinese producers that intend to start up assembly operations in the United States.
- Whirlpool has taken advantage of the vague term "portions of cabinets," using that vagueness to expand the definition of "portions" to include handles, console panels and brackets, in addition to the flat outer "skin" of an LRW.
- LRW cabinets include many separate parts of varying design, materials and function. In fact, applying Whirlpool's expansive definition of cabinet portions may result in Whirlpool's Chinese affiliate being an exporter subject to any order resulting from this investigation.
- The Department must adopt a more specific and enforceable definition of what constitutes a cabinet portion. The Department should limit this definition to "painted exterior steel panels,

[24] *See* Whirlpool's Rebuttal Brief at 14, citing *U.S. Steel Corp. v. United States*, 621 F.3d 1351, 1363 (Fed. Cir. 2010).

or steel panels that are otherwise finished for decorative purposes that serve as an outer shell that houses the mechanical elements of the unit."

Samsung's Case Brief

- The Department should clarify, consistent with its prior notices, that parts that are imported separately from any cabinet panel are not "portions of a cabinet."

Whirlpool's Rebuttal Brief

- LG is simply repackaging scope clarification requests previously rejected by the Department. The scope of any investigation is properly defined by the intent of the petitioner. The Department traditionally grants ample deference to the petitioner in defining the products for which it seeks relief.
- The Department must reject LG's plea that the scope be narrowed to exclude subassemblies, including cabinet portions, imported for repair.
- Regarding LG's argument that Whirlpool does not manufacture each and every subassembly specifically for LG or Samsung LRWs, there is no requirement that a petitioner produce every single product subject to the scope of an investigation.
- The inclusion of certain subassemblies is intended to prevent future circumvention of any order issued as a result of this investigation. This is consistent with past Department and judicial precedent, which seeks to proactively forestall any future circumvention.[25]
- That Whirlpool's definition of "portions of cabinets" is broader than that used in prior investigations of LRWs from Korea and Mexico is entirely proper, and merely reflects lessons learned since the 2012 investigations involving Korea and Mexico. For example, Whirlpool made clear in its February scope comments that it was deliberately broadening the definition of "portions of cabinets" to reflect Whirlpool's concerns about future "evasion and circumvention." Such concerns are properly addressed in the investigation stage of any proceeding.
- Whirlpool's intent to cover *any* portion of the cabinet is clear from its submissions on the subject, thus impeaching LG's attempts to exclude access panels and cabinet bases. The restrictive definition of portions of cabinets urged by LG is not supported by the record of the investigation. The scope clearly covers all cabinets and portions thereof. The Department must reject LG's attempt to write additional exclusions into the scope of the investigation.
- Likewise, the Department should reject Samsung's request that parts imported separately from the cabinet not be covered by the scope. The ambiguity of Samsung's statement will result in unintended exclusions from the scope of the investigation. Further, Samsung did not provide alternative scope language; it does not fall to the Department to remedy this failure, given Whirlpool's opposition to Samsung's request.

Department's Position:

We agree with Whirlpool in part. The scope of the investigation covers LRWs *and certain parts thereof*.[26] "Certain parts" are defined as including "(1) all cabinets *or portions thereof*, designed for use in large residential washers; (2) all assembled tubs designed for use in large residential

---

[25] *See* Whirlpool's Rebuttal Brief at 89 (citing *Mid-Continent Nail Corp. v. United States*, 725 F.3d 1295 (Fed. Cir. 2013) (if the Department anticipates the need for addressing foreseeable areas of dispute, it should do so prior to the order . . .)).

[26] *See Preliminary Determination* at 48744.

washers which incorporate, at a minimum: (a) a tub; and (b) a seal; (3) all assembled baskets designed for use in large residential washers which incorporate, at a minimum, (a) a side wrapper; (b) a base; and (c) a drive hub; and (4) any combination of the foregoing parts or subassemblies."[27] In determining whether a product falls within the scope of an investigation, the Department considers the plain language of the scope. Furthermore, and as we have previously noted, the Department normally grants "ample deference to the petitioners" in defining the scope of an investigation.[28] Absent an "overarching reason to modify the scope" in the petition, the Department will accept the scope proposed by the petitioner. While the Department has ultimate authority to determine the scope of an investigation it "must exercise this authority in a manner which reflects the intent of the petition, and the Department should not use its authority to define the scope of an investigation in a manner that would thwart the statutory mandate to provide relief requested in the petition."[29] Accordingly, the Department in this instance will not modify the language of the scope.

Here, the scope clearly covers cabinets and portions thereof, assembled tubs, assembled baskets and any combination of the foregoing. There is no exception for repair parts. With respect to cabinet portions, LG suggests that Whirlpool does not make the specific cabinet portions used in LG or Samsung LRWs. This argument, however, is irrelevant. There is no requirement under the statute, the regulations, or Departmental practice that a petitioning company produce each and every product that may fall within the scope of an investigation.[30]

We also find nothing improper in the differences between the scope of this investigation and that of earlier investigations of LRWs from Korea and Mexico. A domestic industry is not bound to follow the scope adopted in prior investigations of similar products. As an example, this is amply demonstrated in the various iterations of steel and steel pipe cases, as carbon steel was re-defined as carbon quality steel, later to be expanded to carbon and alloy steel.[31] Whirlpool made clear its intent to cover cabinets and portions thereof, without reference to the three panels specified in the earlier investigations of LRWs.[32] Therefore, we agree with Whirlpool that "portions of cabinets" refers to any of the six individual cabinet panels. As to parts imported separately from cabinet panels, we stated in our Scope Memorandum that, "individual parts *per se* are not covered if they are not a component of a cabinet, assembled tub, assembled basket or a

[27] *Id.* (notes omitted).
[28] *See* Memorandum entitled, "Scope Issues for the Preliminary Determination of the Antidumping Duty Investigation of Large Residential Washers (LRWs) from the People's Republic of China," dated July 19, 2016 (Scope Memorandum) at 4 (citations omitted).
[29] *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products From Canada*, 67 FR 15539 (April 2, 2002).
[30] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000) and accompanying Issues and Decision Memorandum at Comment 1 ("There is no statutory requirement that petitioners produce all products covered by the scope.").
[31] *See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China, 662 FR 61964 (November 20, 1997); and Certain Carbon and Alloy Steel Plate From the PRC: Preliminary Affirmative Determination of Sales at Less Than Fair Value,* 81 FR 79450 (November 14, 2016).
[32] *See, e.g.*, "Petitioner's Rebuttal Comments Concerning Model Match Methodology and Scope," dated February 18, 2016 (Whirlpool Scope Rebuttal) at 14 ("Petitioner's intention is to capture *one or more* of the six surfaces specifically designed for use in an LRW (as opposed to non-LRW cabinets)").

combination of these subassemblies."[33] Thus, we clarify that with respect to cabinets, the reference to "individual parts" refers to those parts that are not integrated into a cabinet panel,

Comment 5: Scope – Pedestal Washers

LG's Case Brief

- LG has developed a unique residential laundry product known as the "Sidekick," a pedestal washer. This is described as a small volume supplemental washer intended to be paired with front loading LRWs. The pedestal washer is a specialty product intended for small loads or special care fabrics; its controls are entirely separate from those of the LRW with which it is paired.
- By definition, the pedestal washer is not a "large residential washer." Whirlpool specifically excluded "compact" washers from the scope of this investigation. While LG's "Sidekick" pedestal washer falls within the cabinet width covered by the scope of the investigation, its small height and one cubic foot capacity preclude its inclusion among LRWs. In addition, no U.S. producer manufactures a similar compact washer.
- Despite Whirlpool's attempt to define LRWs solely by reference to their cabinet width, washer capacity is a function of three dimensions, width, depth and height.
- The Department should exclude all pedestal washers that, *inter alia*, have a height of less than 20 inches and are designed to be paired as a pedestal to an LRW.

Whirlpool's Rebuttal Brief

- LG, citing no new record evidence, is essentially recycling an issue already resolved by the Department in its July 19, 2016 Scope Memorandum.[34] The Department should affirm its earlier rejection of this exclusion request.
- The existing scope language, at paragraph two, clearly includes any residential washer with a width of at least 24.5 inches; in-scope merchandise "is not defined by volume (capacity) or height."
- In keeping with the "ample deference" due to petitioners to define the scope of an investigation, the Department must not allow LG to re-write the scope to exclude its pedestal washers. As the Department properly concluded in its Scope Memorandum, "under the plain language of the scope, small pedestal washers are within the scope of the investigation because they do not meet any of the exclusion criteria." Accordingly, the Department must reject LG's renewed arguments concerning pedestal washers.

Department's Position:

We agree with Whirlpool. The plain language of the scope of this investigation defines LRWs using a single dimensional criterion, *i.e.*, the width of the cabinet. Whirlpool chose not to include height or depth in its definition of the scope. LG does not deny that based on that criterion, width, its pedestal washers fall within the plain language of the scope. As we have previously noted, the Department normally grants "ample deference to the petitioners" in defining the scope of an investigation.[35] As defined by the petition's scope language, LG's

[33] *See* Scope Memorandum at 6.
[34] *Id.* at 9-10.
[35] *Id.*at 4 (citations omitted).

pedestal washers are covered by the scope. We also note that the Department addressed this identical issue with respect to pedestal washers in its *Preliminary Determination*.[36] There, we noted, "the Department has rarely used its authority to narrow the scope of an investigation."[37] LG has not adduced any new evidence or argument that would justify deviating from this longstanding practice in this case.

Comment 6: Use of Acquisition Costs for Surrogate Value Selection

<u>LG's Case Brief</u>

- The Department's preference for using publicly-available data does not obviate the Department's obligation to select the best information on record, regardless of whether the data are publicly-available or proprietary.
- The U.S. Court of International Trade (CIT) and Federal Circuit have interpreted the statute as requiring the Department to analyze the quality, specificity, and contemporaneity of the data when making SV selections.
- The Department uses confidential market-economy purchase data, and has used proprietary data to value inputs in other cases such as *Diamond Sawblades and Parts Thereof from China*.[38]
- The Department should use the respondents' Thai and Mexican acquisition cost data to value factors of production (FOPs) for the following reasons:
  - Thailand and Mexico are economically comparable to China;
  - The acquisition cost data are contemporaneous with the POI and are fully verifiable;
  - The acquisition cost data are representative of functionally-identical parts used by LG to manufacture the subject merchandise.
- If the acquisition cost data are not used, the data can serve as relevant benchmarks to assist the Department in selecting the proper SVs.
- The Department should also consider using LG's Korean acquisition cost data to value its direct materials costs for the following reasons:
  - The Korean direct materials costs are specific to the washers at issue and pertain to the same company; and
  - The Department confirmed that LG did not receive any subsidies to produce washing machines in Korea.[39]

<u>Samsung's Case Brief</u>

---

[36] *Id.*at 9-10.
[37] *See* Scope Memorandum, at 9,citing *Large Residential Washers From the Republic of Korea: Final Results of the Antidumping Duty Administrative Review; 2012-2014*, 80 FR 55595 (September 16, 2015) , and accompanying Issues and Decision Memorandum at Comment 2 ("without the petitioner's consent, the Department has rarely used its authority to narrow the scope of an investigation"); and *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Prestressed Concrete Steel Wire Strand from Mexico*, 68 FR 42378, 42379 (July 17, 2003) (unchanged in final determination; 68 FR 68350 (December 8, 2003)).
[38] *See* LG's Case Brief at 24 (citing to *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 80 FR 32344 (June 8, 2015) (*Diamond Sawblades and Parts Thereof from China)*, and accompanying Issues and Decision Memorandum at 14.
[39] *See* LG's Case Brief at 32 (citing to *Large Residential Washers From the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 75975 (December 26, 2012)).

- The Department's preference for using publicly-available data to value inputs does not preclude the Department from using non-publicly available acquisition cost data that is more specific, reliable, and accurate than the tariff subheadings used by the Department in the *Preliminary Determination.*
- The acquisition cost data of Samsung's manufacturing affiliates reflects the broadest possible market average data because Samsung's raw material inputs are complex, composite subassemblies unique to Samsung's washer assembly operations. Samsung's affiliates are located in Thailand and Mexico, countries the Department has identified as being at a level of economic development comparable to China.
- Both affiliates' data are available for verification if the Department so chooses.
- The Department has been inconsistent in not using the acquisition data of Samsung's Thai affiliate, Thai Samsung Electronics Company Limited (TSE), for certain SVs while using the data in the calculation of the SV financial ratios.
- The CIT has held that Department must balance the interests of transparency and verifiability that are served by using publicly-available data with other considerations such as ensuring that the data are as specific as possible to the raw materials being valued.[40]

<u>Whirlpool's Rebuttal Brief</u>

- The Department should continue to reject Samsung's and LG's acquisition cost data for valuing factors of production because neither party has shown that the facts of this case warrant an exception to the Department's normal practice of only using publicly-available data for SV selection.
- Approximately 90 percent of the SV selections made in the preliminary determination are not in dispute, which supports the fact that the record contains the best available information and that there is no need to abandon the Department's long-standing practice of only using public information for SV selection.
- The Department has declined to use proprietary data to value FOPs in recent cases and this practice has been upheld by the CIT. [41]
- The Department's practice of using publicly-available information is based on the inability to verify non-public data and the unrepresentativeness of company-specific data.
- The two exceptions that the Department makes to its practice of only using publicly-available data to value FOPs are: using respondents' purchase prices from market-economy sources and valuing labor inputs through a regression-derived calculation which includes wage information from a number of countries.
- The Department has not been inconsistent by declining to use the proprietary acquisition cost data of Samsung's Thai affiliate while using its financial statement to calculate financial ratios because the financial statement is a publicly-available document that has been successfully audited.

---

[40] *See* Samsung's Case Brief at 50 (citing to *Allied Pac. Food (Dalian) Co. v. United States*, 587 F.Supp.2d 1330, 1349 (CIT 2008); *Allied Pacific Food (Dalian) Co. v. United States*, 435 F.Supp.2d 1295 at 1315-17 (CIT 2006)).

[41] *See* Whirlpool's Rebuttal Brief at 59 (citing *Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value* , 78 FR 58273 (September 23, 2013); *Multilayered Wood Flooring From the People's Republic of China: Final Results of Antidumping Duty New Shipper Reviews; 2012-2013*, 79 FR 66355 (November 7, 2014); *Certain Uncoated Paper From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*; 81 FR 3112 (January 20, 2016); and *Qingdao Sea-Line Trading Co., Ltd., v. United States*, 766 F.3d 1378 (Fed Cir. 2014)).

- Using the proprietary acquisition cost data of LG and Samsung's affiliates for surrogate valuation is not similar to using market-economy prices because the Department has not been given the opportunity to examine whether the data meet the criteria specified in 19 CFR § 351.408(c)(1).
- The Department should also reject the data of LG's Korean affiliate because: Korea is not economically comparable to China; the data is not contemporaneous with the POI; the data is not publicly-available; and the data would require using multiple countries to establish normal value, which is inconsistent with 19 CFR 351.408(c)(2).

Department's Position:
We agree with the petitioner. In valuing FOPs, section 773(c)(1)(B) of the Act directs us to use the best available information to derive SVs in non-market-economy (NME) proceedings. We maintain that the acquisition costs of LG's and Samsung's affiliates are not the best available information in this case due to their proprietary nature. Therefore, Samsung's offer to allow verification of that data is moot. When selecting SVs, the Department's preference is to use, where possible, a range of publicly-available, non-export, tax-exclusive, and product-specific prices for the POI, with each of these factors applied non-hierarchically to the case-specific facts, and with a preference for using data from a single surrogate country.[42] We continue to find that the *Global Trade Atlas* (GTA) Thai import data satisfy these criteria, in addition to being reflective of broad market averages unlike the proprietary acquisition cost data of LG's and Samsung's Korean, Mexican and Thai affiliates.

The Department's practice of using market-economy purchase prices for surrogate valuation is not inconsistent with our preference for using publicly-available information to value FOPs. Generally, we value inputs using publicly-available price information from a single surrogate country.[43] The Department generally makes an exception to this general rule for the NME producer purchases of inputs from a market-economy producer that are paid for in a market-economy currency, in which case we may use the price paid by the NME producer to value that input.[44] The Court of Appeals for the Federal Circuit has upheld our practice of using prices paid for inputs imported from market economies instead of SVs.[45] In particular, the Court held that "where we can determine that a NME producer's input prices are market-determined, accuracy, fairness, and predictability are enhanced by using those prices" rather than SVs.[46] The Department has continued to adhere to this practice for the final determination by using LG's and Samsung's market-economy purchases paid for in a market- economy currency, where appropriate.

---

[42] *See* 19 CFR 351.408(c)(1). *See also Certain Polyethylene Terephthalate Resin from China*, 81 FR 13331 (March 14, 2016) (*Polyethylene Terephthalate Resin from China*), and accompanying Issues and Decision Memorandum at Comment 1; *Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2005), and accompanying Issues and Decision Memorandum at Comment 14 (Department indicated a strong preference to value FOPs from the primary surrogate country); *Lightweight Thermal paper From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 57329 (October 2, 2008).
[43] *See Polyethylene Terephthalate Resin from China*, 81 FR at 13334, and Issues and Decision Memorandum at Comment 1.
[44] *Id.*
[45] *See Lasko Metal Products, Inc. v. United States*, 43 F.3d. 1442 (1994).
[46] *Id.* at 43 FR at 1446.

Furthermore, we disagree with Samsung that it is inconsistent to use TSE's 2015 financial statement to derive SV financial ratios, but not the proprietary acquisition data of TSE for certain SVs. As an initial matter TSE's financial statement is publicly available, but its acquisition data is not. Moreover, 19 CFR 351.408(c)(4) directs the Department to value a respondent's factory overhead, SG&A, and profit incurred in producing subject merchandise by deriving financial ratios from non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country. The Department's criteria for choosing surrogate companies are the: (1) availability of contemporaneous financial statements; (2) comparability to the respondent's production process; and (3) public availability of information. The Department has expressed a preference to use publicly available financial data containing the level of detail necessary to make adjustments and/or capture all the necessary costs for purposes of calculating accurate financial ratios.[47] We continue to find that TSE's 2015 financial statement satisfies the above-mentioned criteria for selecting surrogate companies to derive financial ratios. We also note that the Department did not use the TSE financial statement because of its affiliation to the respondent *per se*, but rather because TSE is a Thai producer of identical or comparable merchandise and its production process is comparable to that of the respondents.

For these reasons, we continued to use the GTA Thai import statistics to value FOPs in the final determination.

Comment 7: Use of Subheading 8450.90 to Value Certain Parts

LG's Case Brief

- Thai authorities classify many parts of washers using the HTS subheading 8450.90. Thus, this HTS subheading constitutes the "best available information" for valuing these parts. The Department should alter its *Preliminary Determination* to use average unit values under this HTS subheading to value these parts (described individually below). Whirlpool has steadfastly refused to make use of this HTS subheading and the Department largely followed its lead; the Department should correct this error.
- The 8450.90 subheading is more specific in valuing these parts than is a rote reliance upon the constituent materials of the parts. Given this specificity, HTS subheadings based on constituent materials cannot trump this more specific category.
- Materials-based subheadings are, in fact, intended to capture "other" products, not those properly classified as washer parts; the latter classification more accurately captures the value of these parts. Accordingly, 8450.90 is the most accurate description for these parts.
- In the General Rules of Interpretation (GRI), the section notes and the chapter notes of the HTS provide clear guidance on when parts of washers should fall under a different chapter and when they cannot. In keeping with this guidance, subheading 8450.90 is the most appropriate basis for determining the SVs of these parts.
- Whirlpool reads too broadly GRI 1, which specifically calls the reader's attention to "any relevant section and chapter notes" that might apply to the item at issue. This disregard for the section and chapter notes is contrary to both U.S. and Thai practice.

---

[47] *See Sebacic Acid From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 69 FR 75303 (December 16, 2004), and accompanying Issues and Decision Memorandum at Comment 6.

- U.S. Customs and Border Protection (CBP) has followed this same approach, classifying washer parts under 8450.90. Electrolux Home Products sought a letter ruling for its washer parts which resulted in a conclusion they should be classified under 8450.90; in contrast, Whirlpool itself sought a ruling for the front panel assembly of a dryer and CBP replied that this was properly classified under subheading 8451.90 as a dryer part.
- The Department incorrectly disregarded LG's proposed valuation of 206 of 207 parts based on HTS subheading 8450.90. LG's proposed valuations are consistent with Thai and international classifications, and are correct as a factual matter.

Parts Made of Plastic

- The Department should use subheading 8450.90 to value LG's parts made of plastic. Whirlpool, in contrast, urges the Department to classify these parts under various subheadings in Chapter 39, "Plastics and articles thereof," and Chapter 73, "other articles of iron or steel." Whirlpool's argument is based on a misreading of the relevant notes applicable to these items.
- First, the notes to Section XVI of the HTS (which includes Chapter 84 covering, *inter alia*, residential washing machines) specifically direct that parts "suitable for use solely or principally with a particular kind of machine . . . are to be classified with the machine of that kind."[48] As LG's parts are "suitable for use solely or principally" in LRWs, they are "washer parts," properly classified under Chapter 84.
- Further, the notes explain that "this heading also covers parts of the machine of this heading," *i.e.*, Chapter 84.
- Note 2(s) to Chapter 39 specifies that Chapter 39 is not applicable to articles classifiable under Section XVI.
- The heading proposed by Whirlpool for these parts, 3926, is a basket category covering such items as handbag fasteners, suitcase corners, protective cups placed under furniture, and luggage label holders. It is silly to suggest that such miscellaneous items also include dedicated parts for washing machines.
- The inappropriateness of Whirlpool's proposed subheadings can be demonstrated by comparing these values to the actual Thai acquisition cost. For example, the acquisition cost of "hose assemblies" is orders of magnitude lower than the corresponding value under subheading 3926.90.99.090.[49] The same argument holds for "FL door frames" and "FL door window assemblies."

Parts Made of Base Metal

- Whirlpool proposes valuing 27 parts using Chapter 83, "miscellaneous items of base metal," using subheadings for items such as hinges and "other." As noted above, classifying these parts using Chapter 83 ignores the proper scope of heading 8450, which covers washer parts. When classified properly, these parts will be considered parts of appliances under heading 8450.

[48] *See* LG's Case Brief at 40-41, quoting the *Harmonized Tariff Schedule of the United States*, Section XVI Note 2.

[49] The exact acquisition costs for plastic parts, base metal parts, and parts of other materials (the latter two discussed below) are proprietary.

- Contrary to being simple door mounting (hinges) classifiable under 8302, the metal parts at issue here are "complex hinge assemblies" designed specifically for use in LRWs. The hinges at issue must be rounded, as the door to a front-load LRW is circular.
- Heading 8302 specifically does not cover "goods forming an essential part of the structure of the article." The door hinges at issue must properly be considered parts of washers.
- As with plastic parts, comparing the SVs generated using heading 8302 with the actual Thai acquisition costs for these items reveals a glaring disparity; the use of 8302 values grossly inflates the value of these inputs. This demonstrates that the more accurate classification is under subheading 8450.90.
- The same argument holds for LG's other hinge assemblies. As the Explanatory Notes for heading 8302 make clear, this heading would only apply if the items at issue were "suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like." The Explanatory Notes further serve to impeach Whirlpool's arguments. The notes explain that heading 8302 is limited to articles suitable for buildings, motor vehicles or furniture; an LRW is none of these articles.
- Whirlpool's contention that these articles are of "general use" and, thus, classifiable under 8302 is unavailing. These are highly engineered parts, often specific to a certain model of LRW. A part dedicated to a sole use is, by definition, not for "general use." Customs considered this very question in a letter ruling determining that washer parts should be classified under subheading 8450.90.[50]

Parts of "Other Materials"

- Whirlpool is proposing that the Department value other parts using various HTS subheadings under Chapter 40 (rubber and articles thereof), Chapter 73 (articles of iron or steel, Chapter 76 (aluminum and articles thereof) and Chapter 90 (covering, *inter alia*, optical, photographic, cinematographic, and related products). However, the arguments adduced for parts of plastic and of metal, that these are washer parts classifiable under 8450.90, apply here as well.
- Whirlpool's proposed classifications are both odd (bearing no relation to the part at issue) and distortive (resulting in grossly inflated SVs).
- Regardless of the primary input material of the part at issue, be it rubber, aluminum or steel, these are washer parts which should be classified under the subheading covering LRWs. Nothing in the notes to the three HTS Chapters proposed by Whirlpool includes a "carve out" to efface the notes to Section XVI.
- As noted above, a comparison of Thai acquisition costs to the values derived using Whirlpool's proposed headings reveals that Whirlpool's proposed valuation is many times the actual acquisition cost for these items.

Parts Classified Under Chapters 84 and 85

- For 24 remaining parts, Whirlpool objects to the use of 8450.90. Whirlpool instead proposes classifying these parts under Chapters 84 (". . . mechanical appliances; parts thereof) and 85 ("electrical machinery and equipment and parts thereof . . ."). LG recognizes a need to

[50] *See* LG's Case Brief at 74 (citing Letter from LG, "Rebuttal Surrogate Value Comments on Raw Materials, Parts and/or Components," dated June 10, 2016, at Exhibit 22).

clarify the precise classification of these parts, but insists 8450.90 remains the best available option for a particular part.

Samsung's Case Brief

- The Department valued many of Samsung's complex subassemblies under two "basket categories, 3926.90.99.090 and 7326.90.99.090. These subheadings are intended to cover broad baskets of articles of either plastic or steel that are not specifically described under other subheadings. Such basket categories are inappropriate for valuing Samsung's subassemblies, which comprise various parts of differing material composition.
- If the Department insists on rejecting the actual acquisition costs for parts and subassemblies of its Thai and Mexican affiliates then the Department must value these components using HTS subheading 8450.90.
- The TSE and SEDAM data are more specific, and therefore, more suitable, for valuing these subassemblies.
- Given the Department's apparent aversion to using the affiliates' acquisition costs, the best alternative data source for these composite parts is HTS subheading 8450.90. The Department should not adhere to a rigid practice of valuing these parts based upon their primary material input.[51]
- The refusal to value these parts using the most specific HTS category, here, 8450.90, flies in the face of long-standing Department practice, and is contrary to the Department's rationale for relying on GTA data as a basis for SVs.
- There is no evidence that the Thai data under 8450.90 is in any way distortive. As it is, the values assigned using the headings 3926 and 7326 bear no relationship to the actual complex parts being so valued. The "articles of" categories include finished articles of greatly higher value than parts for LRWs.
- The GRIs applicable to Section XVI of the HTS (covering chapters 84 and 85) indicate that parts dedicated for use in washers should be classified with the machines of that kind. This interpretation is buttressed by various Customs rulings.

Whirlpool's Rebuttal Brief

- The Department properly valued the respondents' parts based on the primary constituent material. The Department has a long-standing practice of deriving SVs with an emphasis on specificity to ensure the most accurate margins possible.[52] Similarly, in *Frontseating Service Valves*, the Department based SVs for valve bodies based on brass, the material from which these bodies were fashioned.[53] Use of the "articles of" plastic or steel mitigates the "noise" generated when attempting to value parts of a wide array of materials.
- The Department, as it noted in *53-Foot Domestic Dry Containers*, is not bound by the classification decisions of another agency (*i.e.*, CBP) in valuing the parts at issue. Rather, the

---

[51] *See* Samsung's Case Brief at 55 (citing *Jiangsu Jiasheng Photovoltaic Tech. Co.v. United States*, 28 F. Supp. 3d 1317 (Ct. Int'l Trade 2014) (rejecting the argument that the Department must defer to Customs classification decisions in deriving surrogate values); s*ee also, e.g.*, *53-Foot Dry Containers From the People's Republic of China: Final Determination of Sales at Less Than Fair Value; Final Negative Determination of Critical Circumstances* , 80 FR 21203, (April 17, 2015) (*53-Foot Dry Containers*).

[52] *See* Whirlpool's Rebuttal Brief at 38 (citing *Bicycles from People's Republic of China*, 61 FR 19026 (April 30, 1996)).

[53] *Id.* (citing *Frontseating Service Valves*).

proper HTS category to use for valuing these parts is that associated with the principle input material.[54]

- LG has misinterpreted the Thai classification scheme for these parts. Because, for example, hinges are articles of base metals, they must be so classified and not parsed out into the 8450.90 heading. Such a classification is consistent with the notes to Section XV of the HTS as well as the World Customs Organization (WCO). LG's and Samsung's hinge assemblies must be classified under 8302 as "parts of general use."
- LG's arguments regarding plastic parts are without merit. Its overly expansive interpretation of "parts of machines" cannot properly be applied to the plastic parts at issue; the proper classification of these items is under Chapter 39. Accordingly, the Department must use Chapter 39 as the best available information to value these parts.
- LG argues its parts are properly valued using subheading 8450.90. However, note 1(f) of Section XV of the HTS states specifically that it does not include "Articles of Section XVI," that is, machines, mechanical appliances or electrical goods. Therefore, Section XVI is not applicable.
- LG contends that Chapter 76 is not specifically noted in Note 2(a) of Section XVI and that, therefore, the Department must classify its aluminum parts under subheading 5450.90. However, note 1(f) of Section XV of the HTS states specifically that it does not include "Articles of Section XVI," that is, machines, mechanical appliances or electrical goods. Therefore, Section XVI is not applicable.
- As aluminum is the primary constituent material of certain parts, and the driving factor in the value of these parts, use of an HTS specific to aluminum constitutes the best available information.
- Where the Department is valuing a hose, it should choose a SV based on a hose, irrespective of whether that hose is used in a washer or some other application. There are no grounds for the Department to deviate from the value selected for hoses in the *Preliminary Determination.*
- Samsung's "complex" subassemblies should be valued based upon their primary constituent material. Samsung has failed to demonstrate that the parts or subassemblies at issue actually enter Thailand under HTS 8450.90.
- The Department must continue to value these parts based upon the verified primary constituent materials. For example, verification confirmed that the "assembly semi cover top head" for a top-loading washer is properly classified as an article of steel. The same argument applies for various parts fabricated of plastic (polypropylene).
- Samsung's steel parts should likewise be valued using an HTS subheading for the corresponding articles of steel.
- HTS classifications are not dispositive in determining the best available information to derive SVs.
- Parties' references to the acquisition costs for various components are to no effect; the Department does not benchmark SVs against proprietary cost data of the respondents. Rather, the Department's preference is to rely on publicly-available data that are reflective of broad market averages. Proprietary acquisition costs are not suitable to this end and should not be used.

[54] *Id.* at 40 (citing *53-Foot Domestic Dry Containers*, and accompanying Issues and Decision Memorandum at Comment 3).

Department's Position:
We agree with the respondents, in part. The valuation used for specific parts has been addressed by the parties in separate comments and we respond to each in turn. As a general matter, the Department agrees with the respondents that certain parts involve complex combinations of components of varying materials and, accordingly, it is not necessarily the best available information to value certain of these parts as, *e.g.*, "articles of steel" or "articles of aluminum." The Department's practice is to value such components using the HTS subheadings most specific to them. As we noted in *Iron Mechanical Transfer Drive Components*, among other cases, the Department's goal in deriving SVs is to use information that is "publicly available, contemporaneous with the period under consideration, broad market averages, tax and duty exclusive and specific to the inputs being used."[55]

As an initial matter, we agree with Whirlpool that the proprietary acquisition cost data of LG's and Samsung's affiliates in Thailand and Mexico for washer parts submitted by respondents are not an appropriate benchmark in determining the most specific surrogate value for these parts, because they are not publicly available data and do not reflect a broad market average.[56] As explained above, we have not relied upon these data for the final determination. Moreover, no party alleges that any particular SV that the Department has selected is aberrational (except for printed circuit boards and drain pumps, as discussed further below) but rather, that the acquisition data should be used to inform the Department's determination of which SV under consideration is most specific to a particular input by comparing the Mexican or Thai affiliate acquisition cost to the SVs being considered. Such an approach is contrary to the Department's practice of valuing inputs on the basis of their physical description (*e.g.*, material composition) and/or function (*e.g.*, general purpose).

Whirlpool is correct in noting that the Department is not bound by the tariff classifications of CBP, or Thai customs authorities, in selecting the appropriate subheadings for use in determining SVs. But this does not relieve the Department of its responsibility to use the best available information to value inputs in NME cases. In the *Preliminary Determination*, the Department valued parts, and where relevant, subassemblies based upon their principle constituent material and/or general purpose. We continue to take that approach for certain parts and subassemblies in this final determination. However, for others, we have reconsidered their proper valuation.

Based on our findings at verification and the factual information on the record, we find that certain assembled parts are more accurately classified using HTS number 8450.90, covering other parts of washing machines. These assemblies are: assembly basket spin, assembly basket

[55] *See, e.g.*, *Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 81 FR 75032 (October 26, 2016) and the accompanying Issues and Decision Memorandum at Comment 11.
[56] *See, e.g.*, *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2013-2014*, 81 Fr 39905 (June 20, 2016) and accompanying Issues and Decision Memorandum at Comment 13 ("However it is the Department's practice not to use a respondent's market economy purchase prices as benchmarks to determine whether an SV [surrogate value] is appropriate because a respondent's market economy purchases are proprietary information and are not necessarily representative of industry-wide prices available to other producers.").

bowl, assembly semi cover top, assembly lid (top cover), assembly pulsator, assembly base and assembly housing drawer. We find that it is not appropriate to value these parts based on the primary material composition (*e.g.*, "articles of steel," "articles of aluminum," or "articles of plastic") because each part contains more than one component made up of different materials, and these components comprise the assembled part. "

Our valuation of each of these assemblies for the final determination is discussed in detail below.

Comment 8: Surrogate Financial Ratios

LG's Case Brief

- The Department should continue to use Samsung's affiliated Thai LRW producer's, TSE's, financial report[57] to derive Samsung's surrogate financial ratios, but it should use the timely filed, publicly available financial report of LG's Thai affiliate, LG Electronics (Thailand) Company Limited (LG Thailand), to derive the surrogate financial ratios for LG in the manner demonstrated in Exhibit 3 of its case brief.[58]
- If the Department chooses not to use LG Thailand's publicly-released version of its financial report, the Department can instead use the public version of LG Thailand's financial report to derive LG's surrogate financial ratios.
- LG's Thailand's financial report (whether the publicly released version or public version) covers the entire POI, as does TSE's financial report, which the Department relied on in the *Preliminary Determination* to derive surrogate financial ratios for both companies.
- If the Department decides not to use LG Thailand's financial report for LG alone, then the Department should use both Thai producers' financial data to derive simple-average surrogate financial ratios for both LG and Samsung.

Samsung's Case Brief

- Both TSE's and LG Thailand's financial reports on the record of this case are publicly available in Thailand and both parties have consented to making them public in this case.
- The Department should use the financial data of these two Thai companies to calculate a simple average of the surrogate financial ratios in the manner demonstrated in Appendix I of Samsung's case brief.[59]

[57] Samsung made its Thai affiliate's financial report public. *See* Samsung's letter dated May 16, 2016.
[58] LG also withdrew its request for business proprietary treatment of its Thai affiliated LRW producer's financial report and made it public. *See* LG's letter dated October 13, 2016.
[59] Appendix I of Samsung's case brief includes detailed financial ratio calculations for both Samsung Thai and LG Thailand. Samsung did not make any adjustments to the Department's financial ratio calculations for Samsung Thai in the *Preliminary Determination*.

Whirlpool's Rebuttal Brief

- The Department should continue to rely on its preliminary surrogate financial ratio calculations based on TSE's financial statements.
- The Department should not use LG Thailand's financial statements because LG did not make this information public until October 13, 2016, which is well past any deadline contemplated by the Department's regulations, and therefore should be considered untimely filed and rejected by the Department.
- LG is required to demonstrate whether and when LG Thailand's financial statements became publicly available prior to its request for business proprietary treatment of them. In similar instances, the CIT has rejected the Department's use of financial statements which could not be independently confirmed to be publicly available.[60]
- LG Thailand's financial statements are unreliable because they show that the company received subsidy benefits under the Thai Investment Promotion Act.
- LG Thailand's financial statements are also unreliable because LG refers to them as "draft" financial statements in its April 29, 2016, submission, indicating that they are not complete. In addition, the quality of these data is unreliable according to the auditor notes contained in LG Thailand's financial statement.
- If the Department nevertheless relies on LG Thailand's financial statements in the final determination, the Department should make certain changes to the calculations proposed by LG and Samsung.

Department's Position:

As an initial matter, we disagree with Whirlpool's argument that LG Thailand's financial statements should be rejected from the record. Although business proprietary treatment for LG Thailand's statements was withdrawn on October 13, 2016 as the petitioner indicates, the statements themselves were timely submitted before the *Preliminary Determination*.

For the *Preliminary Determination* we did not use LG Thailand's financial statements because they were business proprietary in nature. For the final determination we find that information contained in LG Thailand's 2015 financial statement indicates that this company benefited from tax exemptions from the Board of Investment under the Investment Promotion Act during 2015. The Department has found this program to be countervailable in prior countervailing duty cases involving Thailand.[61] It is the Department's practice not to use financial statements that indicate that the company received countervailable subsidies.[62] For this reason, we cannot rely on LG

[60] *See* Whirlpool's Rebuttal Brief at 99 (citing *Hardware (Guangzhou) Co., Ltd. v. United States*, 911 F. Supp. 2d 1362, 1368-9 (CIT 2013) and *Yantai Xinke Steel Structure Co. v. United States*, Court No. 10-00240, Final Results of Redetermination Pursuant to Court Remand (Jan. 18, 2013) at 19-20).

[61] *See Certain Frozen Warmwater Shrimp From Thailand: Final Negative Countervailing Duty Determination*, 78 FR 50379 (August 19, 2013), and accompanying Issues and Decision Memorandum at section IV.A.2; and *Notice of Final Determination of Sales at Less Than Fair Valve; Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 49622 (September 28, 2001), and accompanying Issues and Decision Memorandum at section II.A.

[62] *See Hand Trucks and Certain Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 28801 (May 16, 2013), and accompanying Issues and Decision Memorandum at Comment 2; *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China; 2010-2011; Final Results of Antidumping Duty Administrative Review*, 78 FR 5414 (January 25, 2013), and accompanying Issues and Decision Memorandum at Comment 1.

Thailand's financial statements, and therefore, we continue to rely only on TSE's financial statements in the final determination.

The petitioner's other allegations with respect to the unreliability of this company's financial statement are therefore moot, and we have not addressed them here.

Comment 9: Factors of Production Underreporting

Whirlpool's Case Brief

- For three LRW models produced by LG and 17 LRW models produced by Samsung, the Department should make an adjustment to the total FOP weight of the parts comprising those models such that the FOP weight equals the total packed weight for those LRW models as reflected in the U.S. sales database.[63]

LG's Rebuttal Brief

- LG did not comment on this matter.

Samsung's Rebuttal Brief

- The Department weighed and examined numerous LRW parts and found no instances where Samsung underreported its usage rates.
- Samsung demonstrated at verification why aggregate part weights sometimes will exceed and sometimes will be less than the reported overall model weight.
- In its supplemental questionnaire, Samsung explained that on occasion, the washer weight may be greater than the weight of its aggregate parts and *vice-versa*. This can result from: (1) different water levels in the balancer part; (2) the difference between the standard weights in its records and the actual weight of each part reported to the Department; and (3) the fact that the overall LRW weight reported in the U.S. sales database is based on the product brochure, which may not reflect any changes made to a particular LRW model after initial production.
- The Department should make no adjustments to its reported factor usage rates as there is no basis to do so.

Department's Position:

We disagree with Whirlpool. Our verification findings indicate that both companies weighed hundreds of individual parts to report their FOPs as accurately as possible, and in accordance with the requirements of the Department's questionnaire. Unlike in *Frontseating Service Valves*, cited by the petitioner, LG and Samsung made no significant errors in reporting their FOP data on a LRW-model-specific basis. Though the finished weight of the LRW model theoretically should not be greater than the sum of the weight of its parts, at both companies' verifications we

[63] *See* Whirlpool's Case Brief at 24 (citing *Frontseating Service Valves From the People's Republic of China; Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 73825 (December 9, 2013) and accompanying Issues and Decision Memorandum at Comment 5 (*Frontseating Service Valves*); and *Utility Scale Wind Towers from Vietnam*, 77 FR 75984 (December 26, 2012) and accompanying Issues and Decision Memorandum at Comment 4 (*Wind Towers*)).

weighed numerous parts and found no material discrepancies with their reported weights.[64] With regard to the weight of the finished product, we note that the reported net and gross weights of each company's LRW model numbers were obtained from product brochures, and represented standard weights, as Samsung claims.

We also find that the facts in this case differ from the facts in *Wind Towers*, where the Department requested that the respondent reconcile its reported FOP weights with the reported weight of the finished product. In this case, we did not require this type of reconciliation from either respondent. Instead, as stated above, at verification we tested the respondents' reported FOP data for a large sample of the numerous parts involved in this case, and found that each respondent reported FOP weights as accurately as possible.[65] Thus, we do not agree with the petitioner that the minor weight differences it points to in its model-specific analysis of data gathered at verification[66] require an adjustment to the respondents' reported FOPs, and we have not done so in the final determination.

<u>Company-Specific Issues</u>

SAMSUNG

Comment 10: Seven Assembled Parts Containing Multiple Materials

Samsung's Case Brief

- The Department incorrectly valued its assembled parts[67] made of multiple materials and parts, all of which are significant in the assembled part, by selecting HTS subheadings for articles, rather than parts, and based solely on the predominant material used to make the assembled part.
- The items at issue are "parts," not "articles," which means that these items cannot function on their own, but rather, are necessary for a washer to function; therefore, they must be valued using an HTS subheading for "parts" rather than with an HTS subheading for "articles."
- The Department should value these parts instead with data from HTS subheading 8450.90 because these parts are washer parts and include multiple parts made of multiple materials, all of which are significant in the assembled part.
- These parts are designed for and used exclusively in LRWs and as such should be included in the HTS subheading for washer parts (*i.e.*, HTS subheading 8450.90) according to the applicable Thai, U.S. and WCO classification rules and principles for washer parts.
- Whirlpool acknowledges in its scope description and in the petition that HTS subheading 8450.90 is the correct HTS subheading for these complex and composite assembly parts.

---

[64] *See* Samsung FOP Verification Report at 9 and the petitioner's case brief at Exhibit 1; and LG's FOP Verification Report at 9. We are adjusting Samsung's reported weights for rotor and stator part numbers based on our verification findings; however, the petitioner's weight adjustment calculation does not appear to incorporate these corrections.

[65] *See* Samsung FOP Verification Report at 18-19; and LG FOP Verification Report at 16-18.

[66] *See* Whirlpool's Case Brief at Exhibits 1 and 2.

[67] These assembled parts are: (1) assembly basket spin; (2) assembly basket bowl; (3) assembly semi cover top; (4) assembly lid (top cover); (5) assembly pulsator; (6) assembly base; and (7) assembly housing drawer.

- Even though for some of these parts at issue, the value the Department assigned to them in the *Preliminary Determination* using data from a material-specific HTS subheading is less than the value would be using HTS subheading 8450.90, this result is not the determining factor.

Whirlpool's Rebuttal Brief

- The Department should continue to rely on the HTS subheadings used in the *Preliminary Determination* to value these parts, based on the primary material composition of each part.
- Samsung has not demonstrated that these parts are imported into Thailand under HTS subheading 8450.90.
- The Department's verification findings confirmed the primary material composition for these parts based on their individual weight relative to the total weight of all pieces included in the assembled part.
- The Department's preference should be to select a value for these parts based on the primary material composition, rather than a value based on a basket of diverse parts which does not necessarily bear any relationship to the primary material composition of the part at issue.

Department's Position:

In the *Preliminary Determination*, the Department valued the following parts at issue using data from an HTS subheading based on their material composition: (1) assembly basket spin; (2) assembly basket bowl; (3) assembly semi cover top; (4) assembly lid (top cover); (5) assembly pulsator; (6) assembly base; and (7) assembly housing drawer.

Based on our verification findings, we find that, with the exception of certain assembly semi cover tops and assembly lids, all of these parts include components made of different materials, and each of these materials is significant in the composition of each of these components.[68] Specifically,

- The assembly basket spin part numbers are comprised of a basket bowl (made of stainless steel), a balancer (made of polypropylene), a basket wrapper (made of stainless steel), and a flange (made of aluminum).[69]

- Certain assembly basket bowl part numbers[70] are comprised of a flange made of aluminum which is incorporated into a bowl made of polypropylene, whereas, other part numbers[71] are comprised of a flange made of aluminum and a bowl made of stainless steel.[72]

---

[68] *See* Memorandum to the File from Brian Smith and Brandon Custard, Senior International Trade Compliance Specialists, "Verification of the Questionnaire Responses of Suzhou Samsung Electronics Co., Ltd. (SSEC) and Suzhou Samsung Electronics Co., Ltd. – Export (SSEC) (collectively Samsung) in the Antidumping Investigation of Large Residential Washers (LRWs) from the People's Republic of China (PRC)," dated October 7, 2016 (Samsung FOP Verification Report), at pages 9-11 and Exhibits 5D-6, 5D-7, 5D-12 through 5D-16.
[69] *See* Samsung FOP Verification Report at Exhibit 5D-16.
[70] These part numbers are DC97-17816A and DC97-18187A
[71] These part number are DC97-17924A, DC97-18035A, DC97-18632A, DC97-18632B, and DC97-18983A
[72] *See* Samsung FOP Verification Report at Exhibit 5D-15.

- For certain assembly semi cover top part numbers, the assembly cover top contains a cover top (made of steel) with a hole in the middle, a cover plate (made of polypropylene), a body detergent dispenser (made of polypropylene), and a bleach holder (made of acrylonitrile butadiene styrene (ABS)) but no door lid.[73] For other assembly semi cover top part numbers, the assembly cover top has all of the items noted above in addition to an assembly door lid made of glass surrounded by a top cover (*i.e.*, a frame made of ABS or steel) with a door lid, cover and handle (made of ABS or polypropylene) attached to the glass and top cover.[74]

- For the assembly lid (top cover), certain part numbers[75] are made of glass surrounded by a top cover (*i.e.*, a frame made of ABS) with a door lid, cover and handle (all made of ABS) attached to the glass and top cover. For certain other part numbers,[76] the part is also made of glass, but the glass is surrounded by a top cover made of steel with a door lid, cover, and handle (all made of polypropylene) attached to the glass and top cover. For other part numbers,[77] the top cover is made of ABS and has no glass.[78]

- For the assembly pulsator, the material specification for the top portion is made of stainless steel and the bottom portion is made of polypropylene.[79]

- The assembly base is comprised of a base (made of polypropylene) and a pump drain affixed to the base.[80]

- The assembly housing drawer is comprised of a housing drawer (made of polypropylene) equipped with connected hoses (made of rubber) and valves.[81]

For these seven assembled parts, we find that it is not the best available information to value them based on the primary material composition because each assembled part contains multiple components made up of different materials and these components are all integral to the assembled part.

Accordingly, for the final determination, with specific exceptions noted below, we have valued these parts using data from HTS subheading 8450.90, as this HTS subheading is the best available information for the parts at issue.

For the assembly semi cover top part numbers[82] used in front loading washing machines, we have continued to value these part numbers based on the primary material composition as they, unlike cover tops for top loading washing machines, are made primarily of one material, not simply in

[73] *Id.*at 9 and Exhibit 5D-6.
[74] *Id.* at 10 and Exhibit 5D-7.
[75] These part numbers include DC97-18845A, DC97-17951A, DC97-18747A, and DC18846A.
[76] These part numbers are DC97-16959Q, DC97-16959N, and DC97-16959P.
[77] These part numbers are DC97-17133B and DC97-17133C.
[78] *See* Samsung FOP Verification Report at Exhibit 5D-7.
[79] *Id.*at 5D-13.
[80] *See* Samsung FOP Verification Report at Exhibit 5D-14.
[81] *Id.* at Exhibit 5D-12.
[82] These part numbers are DC97-15136X and Y; DC97-17145E; and DC97-18174A, C, D, E, F, G, and T.

terms of weight, but also in terms of the overall design of the part itself, and do not include multiple and significant components made of different materials. Likewise, for two assembly lid part numbers[83] used in top loading washing machines, we have continued to value these part numbers based on the primary material composition as they, unlike the other assembly lid parts reported for top loading washing machines, are made primarily of one material.

Comment 11: Tub Parts

Samsung's Case Brief

- The Department in the *Preliminary Determination* incorrectly valued (1) basket wrapper; (2) drum wrapper; (3) drum back; (4) drum front; and (5) assembly plate bottom, which are significant because of their weight, with an HTS subheading covering forged or stamped iron or steel articles rather than with a general washer part-specific HTS subheading. These parts are not for general use but are parts principally or solely designed for washers, and as such, should be included in HTS subheading 8450.90 per Customs classification rules and guidelines.
- If the Department agrees that the assembly basket spin (discussed in the preceding comment) should be included in HTS subheading 8450.90, then it would be unreasonable to value one of these parts, the basket wrapper, with the HTS subheading the Department used in the *Preliminary Determination,* because this part can only be used in a top loading washer, and is a part included in an assembly basket spin.
- Three parts at issue (drum wrapper,[84] drum back,[85] and drum front), are integral parts of the drum and, as such, are not for general use, but are designed for use only in washing machines; accordingly, they should be valued using data from HTS subheading 8450.90 rather than the HTS subheading the Department used in the *Preliminary Determination*.
- The remaining part, the assembly plate bottom, is actually the bottom portion of the cabinet and as such, should also be valued with data from the HTS subheading 8450.90 for washer parts, rather than the HTS subheading the Department used in the *Preliminary Determination*.

Whirlpool Rebuttal Brief

- The Department should continue to rely on the HTS subheading it used in the *Preliminary Determination* to value these parts, because their primary material composition is steel.
- Samsung has not demonstrated that these parts are imported into Thailand under HTS subheading 8450.90.
- The Department's preference should be to select a value for these parts based on the primary material composition rather than a value based on a basket of diverse parts which does not necessarily bear any relationship to the primary material composition of the part at issue.

Department's Position:

In the *Preliminary Determination*, the Department valued the following parts at issue using data from HTS subheading 7326.90.99.090 (an HTS subheading for articles of forged or stamped iron

[83] These part numbers are DC97-17133B and C.
[84] This part is also referred to by Samsung as a basket wrapper.
[85] This part resembles a pulsator (used in top-loading washers).

or steel)[86] based on their steel material composition: (1) basket wrapper; (2) drum wrapper; (3) drum back; (4) drum front; and (5) assembly plate bottom.

Our verification findings revealed that the basket wrapper and drum wrapper are both part of the drum[87] and therefore, it is no longer necessary to value these two items based on their material composition. Instead, we consider them parts of the drum (also referred to as a tub) which are specifically included in HTS subheading 8450.90.[88] Unlike the seven parts discussed above in Comment 10, which were valued in this final determination under 8450.90 because they are "other parts of washers," we find that the components at issue here (*i.e.*, basket wrapper and drum wrapper) should be valued under 8450.90 because they are "parts of tubs." After further examination of the drum back and drum front part information contained in the record of this proceeding, we similarly find that these parts are also part of the drum (or tub). Therefore, for the basket wrapper, drum wrapper, drum back and drum front, we have used data from HTS subheading 8450.90 (an HTS subheading which includes tub parts) to value them in the final determination.

For the assembly plate bottom, we have continued to value this stamped or forged steel part using data from HTS subheading 7326.90.99.090, because this is the best information available to value this part, in accordance with our SV selection methodology in this investigation. Specifically, as we do not consider this part to be a drum part, we valued it based on its primary material input in the final determination.

Comment 12: Assembly S. Panel Control

Samsung's Case Brief

- The Department incorrectly used HTS subheading 8537.10.13.000 (an HTS subheading for panels equipped with two or more electric apparatus)[89] to value 24 assembly panel control parts in the *Preliminary Determination*, incorrectly assuming that these control panels contained electrical apparatus.
- The Department's verification findings indicate that these parts are housings made of ABS (a plastic).
- The Department should value these parts with data from either HTS subheading 3926.90.99.090 (an HTS subheading for plastic parts)[90] or HTS subheading 8450.90, because these plastic housings are exclusively for use in LRWs.

---

[86] HTS subheading 7326.90.090 includes "Other articles of iron or steel forged or stamped, but not further worked: Other: Other: Other."
[87] *See* Samsung FOP Verification Report at Exhibit 5D-16.
[88] HTS subheading 8450.90 includes "Household or laundry-type washing machines, including machines which both wash and dry: Machines, each of a dry linen capacity not exceeding 10 kg: Parts."
[89] HTS subheading 8537.10.13.000 includes "boards, panels, consoles, desks, cabinets, and other bases, equipped with two or more apparatus of heading 85.35 and 85.36, for electrical control or the distribution of electricity, including those incorporating instruments or apparatus of Chapter 90, and numerical control apparatus, other than switching apparatus of heading 85.17: Other control panels of a kind suitable for goods of heading 84.15, 84.18, 84.50, 85.08, 85.09 or 85.16."
[90] HTS subheading 3926.90.99.090 includes "Other articles of plastics and articles of other materials of heading 39.01 to 39.14: Other: Other: Other."

Whirlpool's Rebuttal Brief

- The Department should value these parts made of plastic with data from HTS subheading 3926.90.99.090 (an HTS subheading for plastic parts) based on its verification findings.
- The Department should not value these parts with data from HTS subheading 8450.90 because 3926.90.99.090 best defines the parts at issue.

Department's Position:

In the *Preliminary Determination*, the Department selected data from HTS subheading 8537.10.13.000 to value these parts based on Samsung's physical description of the product (*i.e.*, display panels) in its June 10, 2016, SV database. At verification, we examined all of Samsung's reported display panel part numbers and confirmed that these parts are control panel housings made with ABS (*i.e.*, a plastic) which do not have electrical apparatus attached to them according to their schemata.[91] Accordingly, as these parts' molds are made of ABS, we have valued them with data from HTS subheading 3926.90.99.090 (an HTS subheading for articles made of plastic) in accordance with our SV selection methodology in this investigation. These data constitute the best available information to value these parts, because they best reflect the primary material composition of the parts at issue, in accordance with our SV methodology in this investigation.

Comment 13: Weight Balancer (also known as Concrete Counterweight)

Whirlpool's Case Brief

- The Department should value this part using data from HTS subheading 6810.99.00.000[92] (an HTS subheading for articles of cement or concrete), rather than with data from HTS subheading 2523.21.00.000[93] (an HTS subheading for cement) used in the *Preliminary Determination*. These parts are articles made of concrete, not cement, based on the Department's verification findings.[94]
- The weight balancer is not simply made of powdered cement encased in a polypropylene mold but rather a designed product requiring sophisticated engineering procedures. For this reason, data from HTS subheading 6810.99.00.000 is more appropriate than data from HTS subheading 2523.21.00.000 for valuation purposes.

Samsung's Rebuttal Brief

- The Department should continue to value the weight balancer using data from HTS subheading 2523.21.00.000 because this part is simply made of a mixture of cement and water encased in polypropylene plastic which does not require specialized actions to produce (such as pressure molding, baking, etc.).

---

[91] *See* Samsung FOP Verification Report at Exhibit 5D-19.

[92] HTS subheading 6810.99.00.000 includes "Articles of cement, of concrete or of artificial stone, whether or not reinforced: tiles, flagstones, bricks and similar articles: Other."

[93] HTS subheading 2523.21.00.000 includes "Portland cement, aluminous cement, slag cement, supersulphate cement, and similar hydraulic cements, whether or not coloured or in the form of clinkers: Portland cement: White cement, whether or not artificially coloured."

[94] *See* Samsung FOP Verification Report at page 10 and Exhibit 5D-10.

- The only function of this part is to serve as a dead weight to keep the washing machine properly working when in operation.[95]
- The WCO Explanatory notes[96] at the four-digit level for HTS heading 6810 indicate that this heading includes only articles in which cement is formed into building materials where strength is important, which does not fit the description of the part at issue.

Department's Position:
In the *Preliminary Determination*, the Department used data from HTS subheading 2523.21.00.000 (subheading for cement) to value Samsung's weight balancers based on our analysis that this part's primary material composition was cement. At verification, we examined all of Samsung's weight balancers and confirmed, based on our review of the schemata, that these parts are made of cement (*i.e.*, inner composition) with an outer casing made of polypropylene.[97] In addition, based on their schemata, we note that the fabrication of these parts does not appear to require the sophisticated engineering techniques that Whirlpool suggests, such as pressure molding, but simply function as dead weights for balancing the weight in the washing machine.

The HTS subheading we used to value this part in the *Preliminary Determination* was an HTS subheading for the primary material (*i.e.*, cement) comprising the part. Because the part is an article of cement rather than simply cement, we find it more appropriate to select an HTS subheading which includes articles of cement to value Samsung's weight balancers in the final determination. Consistent with our valuation of LG's weight balancers, we determine that HTS subheading 6810.19.90.000[98] (articles of cement or concrete) includes the part at issue, and constitutes the best available information with which to value it in the final determination.

Regarding HTS subheading 6810.99.00.000 proposed by the petitioner, we note that this HTS heading appears to cover articles of concrete other than bricks and similar articles, which may include building material items, the manufacture of which require pressure molding. Therefore, we do not find HTS subheading 6810.99.00.000 to be the best available information to value the weight balancer at issue in this case.

Comment 14: Drain Pump Assembly (also known as a Motor and Pump Assembly)

Whirlpool's Case Brief
- The Department should value all drain pump part numbers using data from HTS subheading 8413.70.41.000[99] (an HTS subheading for non-submersible centrifugal pumps) rather than with data from HTS subheading 8413.70.31.999[100] (an HTS subheading for submersible

---

[95] *See* Samsung FOP Verification Report at Exhibit 5D-2.
[96] *See* Samsung's June 10, 2016, SV submission at Exhibit SVR-9.
[97] *See* Samsung FOP Verification Report at page 9 and Exhibit 5D-2.
[98] HTS subheading 6810.19.90.000 includes "Articles of cement, of concrete or of artificial stone, whether or not reinforced: tiles, flagstones, bricks and similar articles: Other: Other."
[99] HTS subheading 8413.70.41.000 includes "Other water pumps, with a flow rate not exceeding 8,000 m3/h: with inlet diameter not exceeding 200 mm."
[100] HTS subheading 8413.70.31.999 includes "Pumps for liquids, whether or not fitted with a measuring device; liquid elevators: Other centrifuge pumps: Submersible water pumps: with inlet diameter not exceeding 200 mm."

pumps) used in the *Preliminary Determination*, because, based on the Department's verification findings.[101]

- Samsung's drain pumps are not submersible, and fit within the flow rate and inlet diameter specifications in the proposed HTS subheading.

Samsung's Case Brief

- The Department should value Samsung's five drain pump part numbers with data from HTS subheading 8413.70.41.999[102] (an HTS subheading for non-submersible pumps that are completely knocked down), rather than the HTS subheading 8413.70.31.999 (an HTS subheading for submersible pumps) which the Department used to value all five drain pump part numbers in the *Preliminary Determination.*
- Based on the Department's verification findings, the centrifugal pumps Samsung uses in LRWs are not submersible, have a flow rate not exceeding 8,000 metric cubic meters per hour, and have an inlet diameter that does not exceed 200 mm.[103]
- HTS subheading 8413.70.41.000 contains aberrational data, as it yields an unreasonably high value to be applied to Samsung's drain pumps, and as such, must include the larger pumps in terms of flow rate and inlet diameter; whereas Samsung's drain pumps are at the low end in terms of both characteristics.
- On the other hand, HTS subheading 8413.70.41.999 covers the very same pumps and in the very same size range as Samsung's pumps, and yields a reasonable value for drain pumps based on their weights.
- Using the weight value (from HTS 8413.70.41.999) rather than the piece value (from HTS 8413.70.41.000) for these parts is also reasonable because the pumps at issue, when imported as a disassembled unit, require only minor assembly.

Whirlpool's Rebuttal Brief

- The Department should not use data from an HTS subheading for submersible pumps to value non-submersible pumps, but rather use data from an HTS subheading for non-submersible pumps to value them.
- The appropriate HTS subheading to use for valuing these non-submersible pumps is HTS subheading 8413.70.41.000 (non-submersible drain pump kits) rather than HTS subheading 8413.70.41.999 (non-submersible drain pumps completely knocked down) because Samsung purchased these drain pumps as kits from its vendor.
- The Department should not select an HTS subheading based on the unit of measurement of the data included in the HTS subheading when the information necessary to convert the unit of measurement of the HTS subheading data to that of a respondent's FOP data is on the record.
- The Department should not find the data from HTS subheading 8413.70.41.000 to be aberrational, as the range of values for this eight-digit subheading are within the range of values for the six-digit subheading (*i.e.*, 8413.70).

---

[101] *See* Samsung FOP Verification Report at Exhibit 5D-9.
[102] HTS subheading 8413.70.41.999 includes "Other water pumps, with a flow rate not exceeding 8,000 m3/h: with inlet diameter not exceeding 200 mm: CKD."
[103] *See* Samsung FOP Verification Report at Exhibit 5D-9.

Samsung's Rebuttal Brief

- The value from the HTS subheading proposed by Whirlpool produces absurd results and covers a wide range of centrifugal water pump sizes. Samsung's water pumps are at the low end of the size range specified by the HTS subheading description and require only minor assembly, such that HTS subheading 8413.70.41.999 is a better fit for the valuation of this part.

Department's Position:
In the *Preliminary Determination*, the Department used data from an HTS subheading for submersible pumps (*i.e.*, HTS subheading 8413.70.31.999) because Samsung reported that it used submersible pumps in its LRWs. Thus, we found that HTS subheading 8413.70.31.999, covering submersible pumps was the most appropriate category in terms of the function and specifications of the part based on the available information at the time of the *Preliminary Determination.*

However, at verification we found that all of Samsung's drain pump part numbers represent non-submersible drain pumps with flow rates and inlet diameters within the ranges specified by HTS heading 8413, and that Samsung purchased assembled pumps (rather than completely knocked down, *i.e.*, disassembled).[104] Based on this information, we have reconsidered the HTS subheading we used in the *Preliminary Determination*, and find that it is more accurate to value Samsung's drain pumps using an HTS category that covers non-submersible drain pumps.

HTS subheading 8413.70.41.000 covers a wide range of assembled non-submersible motor and pump assemblies with a flow rate not exceeding 8,000 cubic meters per hour and an inlet diameter not exceeding 200 mm, and provides a value per piece, while HTS subheading 8413.70.41.999 covers completely knocked down, non-submersible motor pumps of the same specifications, but provides a value per kilogram. Our verification findings indicate that Samsung's drain pumps fall at the lower end of the range in terms of flow rate and inlet diameter.[105]

In determining whether the distinction between assembled and disassembled pumps is significant, we looked to the schematic for each drain pump part number at issue. The schematics indicate that assembly is a simple process involving connecting the drain pump piece to the case pump piece and in some cases to a motor, with tapping screws.[106] Therefore, it is clear from each drain pump's schematic that the assembly process for these pumps is insignificant, and we have taken this fact into account in our determination.

Regarding whether a value expressed in pieces as opposed to a value expressed in kilograms better reflects the value of the part at issue, absent information regarding the specific pumps covered by the HTS subheadings, and considering the information on the record with respect to the characteristics of the respondents' pumps, we conclude that there is a correlation between the size and weight of these parts.[107] We verified that Samsung's drain pumps are hand-held, and

[104] *See* Samsung FOP Verification Report at page 10 and Exhibit 5D-9.
[105] *Id*.
[106] *Id.* at Exhibit 5D-9.
[107] *Id.* and LG FOP Verification Report, at page 10 and Exhibit 5L and 14B.

weigh between 0.6 (*i.e.*, pumps without motors) and 1.5 kilograms (*i.e.*, pumps with motors).[108] Because the HTS categories cover a wide range of sizes (which are determined by the inflow capacity and inlet diameter), we believe that selecting a weight-based SV in this instance would minimize the potential for distortion that could result when using a per-piece-based SV. For this reason, and because we determine that the assembly process is minor, we used HTS subheading 8413.70.41.999 to value Samsung's drain pump assemblies in the final determination.

Comment 15: Thermistors and Thermistor Assemblies, Pressure Sensors, and MEMS Sensors

Samsung's Case Brief

- To value thermistors, the Department should use HTS subheading 8533.40.00.000[109] instead of HTS subheading 9032.89.39.000. HTS subheading 8533.40.00.000 includes electrical resistors which do not contain integrated circuitry, but simply sense and monitor temperature, as do Samsung's thermistors.
- Although a thermistor is a resistor that does not have an integrated circuit necessary to regulate temperature, the Department used an HTS subheading for an automatic regulating and controlling device under Chapter 90 to value this part.[110]
- For pressure sensors, the Department incorrectly used HTS subheading 9032.89.39.090[111] (an HTS subheading for automatic regulating or controlling instruments which also can sense) rather than HTS subheading 9026.90.10.000[112] (an HTS subheading for just measuring devices).
- The Department's verification findings indicate that Samsung's pressure sensors are designed for sensing or monitoring (rather than measuring or controlling) water level because they do not have a "brain" (*i.e.*, an integrated circuit (IC)) necessary to operate them.
- The Department incorrectly valued micro electromechanical systems (MEMS) sensors using data from HTS subheading 9032.89.39.090. Instead, the Department should use data from HTS subheading 9031.90.19.000[113] (an HTS subheading for measuring and checking devices not specified elsewhere in Chapter 90).
- The Department's verification findings indicate that although MEMS sensors do not have ICs, and are designed for sensing or monitoring (rather than measuring or controlling), they do have an IC sensor for monitoring the vibrating distance from the tub.

[108] *See* Samsung FOP Verification Report at Exhibit 8C-1.
[109] HTS subheading 8533.40.00.000 includes "Electrical resistors (including rheostats and potentiometers), other than heating resistors: Other variable resistors, including rheostats and potentiometers."
[110] This part has part number EBD50360202.
[111] HTS subheading 9032.89.39.090 includes "Automatic regulating or controlling instruments and apparatus: Other: Other: Other."
[112] HTS subheading 9026.90.10.000 includes "Instruments and apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases (for example, flow meters, level gauges, manometers, heat meters): Parts and accessories: For electrically operated instruments and apparatus."
[113] HTS subheading 9031.90.19.000 includes "Measuring or checking instruments, appliances and machines, not specified or included elsewhere in this Chapter: profile projectors: Parts and accessories: For electrically operated equipment: Other."

Whirlpool's Rebuttal Brief

- The Department should reject the HTS subheadings proposed by Samsung and continue to value thermistors, pressure sensors and MEMS sensors using the HTS subheading used in the *Preliminary Determination.* The explanatory notes to Chapter 90 specify that automatic controlling devices consist of devices that measure, control, or start/stop operating, and Samsung's thermistors, pressure sensors and MEMS sensors perform all of these functions.

Department's Position:

In the *Preliminary Determination*, the Department used data from HTS subheading 9032.89.39.090 to value thermistors, pressure sensors and MEMS sensors based on the limited information provided by Samsung in its June 10, 2016, SV submission.

At verification, we examined the schemata for Samsung's four thermistor part numbers and that information indicates that these parts are electrical resistors which do not contain an integrated circuit or IC (necessary to control temperature) and simply sense and monitor, rather than control or measure, temperature.[114]

The explanatory notes for Chapter 90 (*e.g.*, HTS heading 9032) provide that parts included in HTS subheading 9032 must have all three of these capabilities: (1) the ability to automatically control the flow level or pressure or temperature of liquids and/or gases ; (2) the ability to measure the variable (*i.e.*, gas or liquid) being controlled; and (3) the ability to start, stop or operate.[115] As thermistors only sense and monitor temperature, we do not find that this part is included in HTS subheading 9032.89.39.090 because this part does not control, measure or self-operate.

HTS subheading 8533.40.00.000 appears to include electrical resistors like the thermistor whose individual function (*i.e.*, sensing and/or monitoring) is otherwise not covered by HTS subheadings included in Chapter 85. Therefore, we have used data from HTS subheading 8533.40.00.000 to value Samsung's thermistor part numbers in the final determination because the description of this HTS subheading, unlike HTS subheading 9032.89.39.090, is more specific to the part. Put another way, the thermistor is included in the description of HTS subheading 8533.40.00.000 but not in the HTS subheading 9032.89.39.090, because record evidence demonstrates that the thermistor only senses and monitors.

Regarding Samsung's pressure sensors, we examined the schemata for all four pressure sensor part numbers at verification. That information indicates that these parts also do not contain an IC necessary to control the water level, and simply sense and monitor, rather than control or measure, the water level.[116]

HTS subheading 9026.90.10.000 appears to include electrically-operated apparatus, like a pressure sensor, which is only a sensing and monitoring device. Samsung's pressure sensor does not appear to be included in HTS subheading 9032.89.30.090, as it is not capable of all three functions specified in the explanatory notes for Chapter 90. In addition, contrary to the

[114] *See* Samsung FOP Verification Report at pages 8-9 and Exhibit 5D-1.
[115] *See* LG's June 10, 2016, SV Submission at Exhibit 20.
[116] *See* Samsung FOP Verification Report at page 9 and Exhibit 5D-3.

petitioner's claim, valuation data for HTS subheading 9026.90.10.000 is on the record of this case.[117] We have used data from HTS subheading 9026.90.10.000 to value these part numbers in the final determination because the description of this HTS subheading is more specific to the part than that of HTS subheading 9032.89.39.090.

Regarding Samsung's MEMS sensors, we examined the schemata for all four MEMS sensor part numbers at verification and that information indicates that these parts also do not contain an IC and simply sense and monitor, rather than control or measure, the vibrating distance from the tub.[118]

Regarding the HTS subheading proposed by Samsung for valuing its MEMS sensors (HTS 9031.90.19.000), there are no valuation data for this HTS subheading on the record of this case; thus, we cannot further consider this HTS subheading for valuation purposes. We continue to use data from HTS subheading 9032.89.39.090 to value these part numbers in the final determination, even though these parts only perform one of the three functions specified in this HTS subheading. Because this HTS subheading is the only one on the record which covers parts that also sense and monitor, it is the best available information on the record to value Samsung's MEMS sensors.

Comment 16: Motor Drain Clutch

Samsung's Case Brief

- The Department incorrectly used HTS subheading 8501.10.99.000[119] (an HTS subheading for motors with an output exceeding 37.5 watts), rather than HTS subheading 8505.20.00.000[120] (an HTS subheading for clutches), to value its two motor drain clutch part numbers[121] in the *Preliminary Determination*.
- The Department's verification findings indicate that these parts are clutches without motors.

Whirlpool's Rebuttal Brief

- The Department should reject the HTS subheading proposed by Samsung because that HTS subheading is not specific to clutches alone, but also includes electro-magnetic couplings and brakes.
- The Department should continue to value these parts using the HTS subheading used in the *Preliminary Determination* because this HTS subheading is more specific to Samsung's part than the HTS subheading proposed by Samsung.

Department's Position:

In the *Preliminary Determination*, the Department used data from HTS subheading 8501.10.99.000 to value this part because the part description indicated that it included a motor, and HTS subheading 8501.10.99.000 covers motors with an output exceeding 37.5 watts. At

---

[117] See Whirlpool's June 13, 2016, SV submission at Exhibit 1.

[118] *See* Samsung FOP Verification Report at page 9 and Exhibit 5D-4.

[119] HTS subheading 8501.10.99.000 includes "Electrical motors and generators: Motors of an output not exceeding 37.5 W: Other."

[120] HTS subheading 8505.20.00.000 includes "Electro-magnetic couplings, clutches and brakes."

[121] These two part numbers are DC31-00090B and DC31-20014C.

verification, we examined the schemata for Samsung's motor drain clutch part numbers, which noted that this part is a clutch, rather than a motor, and that it functions as a moving lever.[122] With this information now on the record, HTS subheading 8501.10.99.000 is no longer the most specific category for this part.

After a further examination of the description for both HTS subheadings and our verification findings noted above for the part numbers at issue, we have used data from HTS subheading 8505.20.00.000 to value these drain clutch part numbers in the final determination.
We find that this subheading covers clutches which are similar in function to Samsung's drain clutch, and thus, it is more specific to the input than is HTS 8501.10.99.000.

Comment 17: Assembly Hinge

Samsung's Case Brief

- The Department incorrectly used HTS subheading 8302.10.00.000[123] (an HTS subheading for base metal mountings and fittings inclusive of hinges), rather than HTS subheading 8302.60.00.000[124] (an HTS subheading for base metal mountings and fittings inclusive of automatic door closers), to value Samsung's five assembly hinge parts.
- The Department's verification findings indicate that these parts are not simple hinges, but rather subassemblies which include several components, and function similarly to complex automatic door closing devices.

Whirlpool's Rebuttal Brief

- The HTS subheading proposed by Samsung is no more specific than the HTS subheading the Department used to value these parts in the *Preliminary Determination*.
- The Department should continue to value these parts using HTS subheading 8302.10.00.000 because this HTS subheading is more specific to Samsung's part than the HTS subheading proposed by Samsung.

Department's Position:
In the *Preliminary Determination*, the Department used data from HTS subheading 8302.10.00.000 to value Samsung's five assembly hinge part numbers.

At verification, we examined the schemata for this part, which confirmed that this part incorporates piano wire, which is used to cushion the force applied to closing a door.[125] This part appears to function more like a complex automatic door closing device than a simple hinge. In determining which proposed HTS subheading includes these complex hinge assemblies, we note

---

[122] *See* Samsung FOP Verification Report at page 10 and Exhibit 5D-11.
[123] HTS subheading 8302.10.00.000 includes "Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like; base metal hat-racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal; automatic door closers of base metal: Hinges."
[124] HTS subheading 8302.60.00.000 includes "Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like; base metal hat-racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal; automatic door closers of base metal: Automatic door closers."
[125] *See* Samsung FOP Verification Report at page 10 and Exhibit 5D-8.

that the valuation data for Samsung's proposed HTS subheading 8320.60.00.000 are not on the record of this investigation; therefore the Department cannot consider using this subheading. The record demonstrates that Samsung's hinge assemblies incorporate spring action features and are designed for washing machines, rather than for items such as furniture specifically identified in the description for HTS subheading 8302.10.00.000. Therefore, we have used data from HTS subheading 8450.90 to value these hinge assemblies in the final determination, as these parts are more complex in design and function than the simple hinges covered in HTS 8302.10.000.000. Accordingly, the description of HTS subheading 8450.90 is the best available information on the record to value these part numbers.

Comment 18: Assembly Hose Circulation

Samsung's Case Brief

- In the *Preliminary Determination*, the Department incorrectly used HTS subheading 4009.12.90.000[126] (an HTS subheading for hoses made of vulcanized rubber), rather than an HTS subheading for hoses made of polypropylene, to value three[127] of the six reported assembly hose circulation part numbers
- The Department should value the three assembly hose circulation part numbers using HTS subheading 3917.22.00.000,[128] which includes hoses made of polypropylene, in the final determination.

Whirlpool's Rebuttal Brief

- The HTS subheading proposed by Samsung is not on the record of this case, and therefore the Department cannot use those data to value the three assembly hose circulation part numbers at issue.
- The Department should value these three assembly hose circulation part numbers at issue using HTS subheading 3917.33.00.000[129] because the Department preliminarily concluded that these hoses have fittings; there is no basis to change that determination.

Department's Position:

In the *Preliminary Determination*, the Department used data from HTS subheading 4009.12.90.000 to value the six assembly hose circulation part numbers, based on Samsung's characterization of these part numbers in its June 10, 2016, SV database. At verification, we established that the main hose segment for three of these part numbers is made of polypropylene rather than a type of rubber, and has fittings.[130]

Regarding these three hose circulation parts, we agree with the petitioner that data for HTS subheading 3917.22.00.000, which Samsung advocates that we use, are not on the record of this

[126] HTS subheading 4009.12.90.000 includes "Tubes, pipes, and hoses, of vulcanized rubber other than hard rubber, with or without their fittings (for example, joints, elbows, flanges): With fittings: Other."
[127] These part numbers are DC97-17354A, DC97-18677A, and DC97-18923A.
[128] HTS subheading 3917.22.00.000 includes "Tubes, pipes and hoses, fittings therefor (for example, joints, elbows, flanges), of plastics: Of polymers of propylene."
[129] HTS subheading 3917.33.00.000 includes "Tubes, pipes and hoses, fittings therefor (for example, joints, elbows, flanges), of plastics: Other, not reinforced or otherwise combined with other materials, with fittings."
[130] *See* Samsung FOP Verification Report at Exhibit 5D-5.

investigation. However, data for HTS subheading 3917.33.00.000 *is* on the record, and this HTS subheading includes hoses made of plastic with fittings. As these three hose circulation part numbers are made of polypropylene plastic and have fittings (*e.g.*, connectors), we find that HTS subheading 3917.33.00.000 is the best information on the record to value these part numbers in the final determination.

For the other three hose circulation part numbers made of a type of rubber that have fittings,[131] we have continued to use data from HTS 4009.12.90.000 as this HTS subheading includes such hoses.

Comment 19: Flange Shaft Spider

Whirlpool's Case Brief

- The Department should value five of the flange shaft spider part numbers[132] using data from HTS subheading 7616.99.99.090[133] (an HTS subheading for articles of aluminum) rather than with data from HTS subheading 8483.10.90.000 [134] (an HTS subheading which includes "other" transmission shafts) used in the *Preliminary Determination*, because these parts consist of a flange made of aluminum, according to the Department's verification findings.[135]
- For Samsung's three part numbers which include both a flange and a shaft,[136] the Department should use data from HTS subheading 7616.99.99.090 to value them because the flange is the primary part, and the flange is made of aluminum, according to the Department's verification findings.[137]
- Selecting the HTS subheading that best defines the material of the primary component of the part is more specific than using an HTS subheading that only notes the part, and not its material composition.

Samsung's Rebuttal Brief

- The Department should continue to value the flange shaft assembly part numbers using data from 8483.10.90.000 because the subassemblies contain transmission shafts that connect directly to the washer motor. Therefore, they are transmission shafts as defined in the WCO Explanatory Notes.
- The Department should value Samsung's flange part numbers with its Thai affiliate's POI-weight-average acquisition cost because it is specific to the input.
- Alternatively, the Department should continue to value these parts using HTS subheading 8483.10.90.000 because this HTS subheading is more specific to Samsung's part than the HTS subheading proposed by Whirlpool. Alternatively, the Department should use the

[131] See Samsung FOP Verification Report at Exhibit 5D-5.
[132] These part numbers are DC60-00067A, DC60-00067D, DC60-00101A, DC60-00116A, and DC60-00116B.
[133] HTS 7616.99.99.090 includes "Other articles of aluminum: Other: Other: Other: Other: Other."
[134] HTS subheading 8483.10.90.000 includes "Transmission shafts (including cam shafts and crank shafts) and cranks; bearing housings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints)."
[135] *See* Samsung FOP Verification Report at page 10 and Exhibit 5D-10.
[136] These part numbers are DC97-15877E, DC97-16509C, and DC97-17004B.
[137] *See* Samsung FOP Verification Report at page 10 and Exhibit 5D-10.

washer parts HTS subheading 8450.90 to value them, because this part is suitable for use only in a washer.

Department's Position:
In the *Preliminary Determination*, the Department used data from HTS subheading 8483.10.90.000 to value Samsung's eight part numbers at issue, preliminarily finding that this HTS subheading was the most appropriate one in terms of the function and primary material composition of the part.

At verification, we found that five of the part numbers[138] at issue consist of an aluminum flange, whereas the other three part numbers[139] consist of an aluminum flange, a shaft made of steel, and a bush flange (*e.g.*, a connecting or coupling piece) made of steel.[140]

Therefore, to value the five part numbers consisting of only a flange made of aluminum, we used data from HTS subheading 7616.99.99.090 (covering articles of aluminum), rather than HTS subheading 8483.10.90.000 (covering transmission shafts), as the former HTS subheading is specific to the material composition of the flange part, which by itself does not function as a transmission shaft.

To value the other three part numbers consisting of a combination of a flange and shaft, we have continued to use HTS subheading 8483.10.90.000 (*e.g.*, transmission shafts including their couplings), because, when attached to a shaft, the flange functions as a transmission shaft. Thus, the description of HTS subheading 8483.10.90.000, unlike a material-composition-specific HTS subheading which only accounts for one of the two parts included in the assembly, is more specific to the part based on the data examined at verification for this part.

Comment 20: Inlay Panel

Whirlpool's Case Brief
- The Department should value Samsung's single inlay panel part number using data from HTS subheading 3926.90.99.090 (an HTS subheading for articles of plastic) rather than with data from HTS subheading 3901.20.00.090[141] (an HTS subheading for polymers of ethylene) used in the *Preliminary Determination*, because this part is an article made of plastic, rather than polymer of ethylene (polyethylene).

Samsung's Rebuttal Brief
- Whirlpool's argument for proposing a different HTS subheading to value this input is insignificant as it involves only one part number and the difference in valuation is negligible.

[138] These part numbers include DC60-00067A, DC60-00067D, DC60-00101A, DC60-00116A, and DC60-00116B.
[139] These part numbers include DC97-15877E, DC97-16509C, and DC97-17004B.
[140] *See* Samsung FOP Verification Report at page 10 and exhibit 5D-10.
[141] HTS subheading 3901.20.00.090 includes "Primary forms polymers of ethylene, in primary forms: Polyethylene having a specific gravity of 0.94 or more: Other."

Department's Position:
In the *Preliminary Determination*, the Department used data from HTS subheading 3901.20.00.090 (an HTS subheading for polymers of ethylene) for Samsung's one inlay panel part number[142] based on Samsung's characterization of the part in its June 10, 2016, SV database. In its June 21, 2016, SV database submission, Samsung revised the HTS subheading designation for this one part number from HTS subheading 3901.20.00.090 to HTS subheading 3926.90.99.090.

For the final determination, we have valued this one inlay panel part number using data from HTS subheading 3926.90.99.090 because this HTS subheading best describes the physical characteristics of the part at issue which, as the petitioner notes and as Samsung's revised SV database indicates, is an inlay panel made of plastic and not of polyethylene and, therefore constitutes the best available information, whether the effect on the ultimate margin is insignificant as Samsung claims, or not.

Comment 21: Tapping Screws

Whirlpool's Case Brief

- The Department should value 17 tapping screw part numbers using data from HTS subheading 7318.14.00.000[143] (an HTS subheading for self-tapping screws) rather than with data from HTS subheading 7318.15.00.000[144] (an HTS subheading for screw-tapping screws) used in the *Preliminary Determination*, because these parts are tapping screws.

Samsung's Rebuttal Brief

- The Department did, in fact, value 17 of Samsung's 18 tapping screw part numbers using data from HTS subheading 7318.14.00.000. Therefore the change Whirlpool is requesting is insignificant.

Department's Position:
In the *Preliminary Determination*, the Department used data from HTS subheading 7318.14.00.000 (an HTS subheading for self-tapping screws) for 17 of Samsung's reported tapping screw parts as listed in its June 10, 2016, SV database. For the remaining tapping screw part number,[145] we used data from HTS subheading 7318.15.00.000 based on Samsung's characterization of the part in its June 10, 2016, SV database. In its June 21, 2016, SV database submission, Samsung revised the HTS subheading designation for this one part number from HTS subheading 7318.15.00.000 to HTS subheading 7318.14.00.000.

---

[142] This part number is DC64-02741D.
[143] HTS subheading 7318.14.00.000 includes "Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar articles, of iron or steel: Threaded articles: Self-tapping screws."
[144] HTS subheading 7318.15.00.000 includes "Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar articles, of iron or steel: Threaded articles: other screws and bolts, whether or not with their nuts or washers."
[145] This part number is 6006-001174.

For the final determination, we have also valued this one tapping screw part number using data from HTS subheading 7318.14.00.000 because this HTS subheading best describes the physical characteristics and function of the part at issue, which based on Whirlpool's comments and Samsung's revised SV database, is a self-tapping screw and not a screw-tapping screw.

Comment 22: Warranty Expenses

Whirlpool's Case Brief

- The Department should base Samsung's warranty expenses on the three most recently completed fiscal years, because the reported POI model-specific expenses are distortive.
- The Department should not use Samsung's model-specific warranty expense ratios because Samsung failed to provide the historical data for the preceding three-year period on a model-specific basis and the reported model-specific warranty expense ratios are distortive.

Samsung's Rebuttal Brief

- The Department should continue to rely on Samsung's model-specific warranty expense ratios applicable during the POI in accordance with the Department's reporting requirements and practice.[146]
- The Department's verification findings indicate that there were no discrepancies with respect to Samsung's reporting method for these expenses.
- Whirlpool's claim that the model-specific warranty expense ratios are distortive is without merit as it relies on one instance in which a calculated model-specific warranty expense ratio appears aberrant as evidence that all of the model-specific warranty expense ratios are unreliable.
- The Department should not use Samsung's three-year average warranty expense, which is based on expenses for both subject and non-subject LRWs, because the POI model-specific warranty expense ratios are not aberrational or unreasonable, and there is no basis to reject the POI model-specific warranty expense ratios.[147]

Department's Position:

We agree with Samsung and we continue to rely on the POI model-specific warranty expense ratios for the final determination. As Samsung stated in its rebuttal brief, after the Department observed that Samsung's records could tie warranty expenses to specific models, the Department specifically requested that Samsung report U.S. warranty expenses on a model-specific basis in a supplemental questionnaire.[148] Samsung complied with the Department's request and we verified the accuracy of the information.[149] Our use of model-specific warranty expenses is consistent with the approach in *Pasta from Italy* cited by Samsung such that, if a respondent tracks and

[146] *See* Samsung's Rebuttal Brief at 20 (citing *Certain Pasta From Italy: Notice of Final Results of 16th Antidumping Duty Administrative Review; 2011-2012*, 79 FR 11409 (February 28, 2014) (*Pasta from Italy*), and accompanying Issues and Decision Memorandum at Comment 2).

[147] *See* Samsung's Rebuttal Brief at 21 (citing *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Determination of Sales at Less Than Final Value*, 77 FR 63791 (October 17, 2012), and accompanying Issues and Decision Memorandum at Comment 28).

[148] *See* Letter to Samsung, "Supplemental Questionnaire to Section C Response," dated May 24, 2016, at page 6, and Samsung's Rebuttal Brief at pages 18-19.

[149] *See* Samsung's Section C Supplemental Questionnaire Response, dated June 20, 2016 at pages SC-21 – SC-22; and Samsung CEP Verification Report at pages 18-19 and VE-40.

records such expenses on a model-specific basis in its books and records, we may use those expenses on that basis.[150]

Whirlpool contends that Samsung's model-specific warranty expense reporting is distortive when compared to the three-year historical average of warranty expenses incurred on Samsung's washing machines. According to our analysis, we do not have sufficient evidence to demonstrate that the model-specific expenses are distortive. Whirlpool's analysis considers only the simple-average of the warranty expense ratios over three years (2013 to 2015), and compares that average to the POI-average.[151] This analysis alone does not demonstrate that the POI model-specific ratios are distortive. We note that the trend of these expense ratios from 2013 through 2015 (*i.e.*, the change in the expense ratio from year to year) indicates that the POI ratios are consistent with that trend. Accordingly, we find no basis to reject Samsung's reported and verified POI model-specific warranty expense ratios, and replace them with the three-year historical average warranty expense ratio.

Comment 23: Corrections from Verification

Whirlpool's Case Brief

- The Department should correct Samsung's indirect selling expenses as a result of verification.

Samsung did not comment on this issue.

Department's Position:

We agree with the petitioner, and requested that Samsung make this correction to its U.S. sales listing submitted on October 21, 2016,[152] along with other corrections, as specified in the Department's October 18, 2016, letter to Samsung. We have used this U.S. sales listing in the final determination.

Comment 24: Programming Clerical Error in the *Preliminary Determination*

Whirlpool's Case Brief

- The Department calculated an amount for packing labor in the SAS margin program but inadvertently omitted packing labor from the NV cost buildup.
- The Department should correct this clerical error in the final determination.

Samsung did not comment on this clerical error allegation.

Department's Position:

We agree with the petitioner and have made this correction in the final determination.

[150] *See Pasta from Italy* at Comment 2.
[151] *See* Samsung April 15, 2016, Sections C and D Questionnaire Response at Exhibit C-30 and Whirlpool's Case Brief at page 27.
[152] *See* October 21, 2016, Letter from Samsung to the Department.

LG

Comment 25: Motor and Pump Assembly (also known as a Pump Drain Assembly)

LG's Case Brief

- The Department incorrectly used HTS subheading 8413.70.41.000 to value three motor and pump assembly parts in the *Preliminary Determination* because that HTS subheading includes drain pumps with different flow rates and inlet diameter specifications from LG's drain pumps.
- The value data from HTS subheading 8413.70.41.000 is aberrational because it contains a wide range of part sizes and the value difference between the "completely knocked down" version of the pumps found in HTS subheading 8413.70.41.999 and the fully assembled version of the pumps under HTS subheading 8413.70.41.000 is too great.
- The Department's verification findings indicate that the Department should instead use HTS subheading 8413.70.41.999 to value one drain pump part (4681EA1007A) based on its flow rate and diameter specifications. The Department should use HTS subheading 8501.31.30.000 to value the two other parts (4681EA2001T, EAU61383503) because those parts are actually motors that do not have drain pumps.
- The values corresponding with these HTS subheadings more closely resemble the acquisition costs of LG's Thai affiliate, while the value the Department used in the *Preliminary Determination* results in an extreme overvaluation of these parts.

Whirlpool's Rebuttal Brief

- The Department should continue to use HTS subheading 8413.70.41.000 (water pumps with a flow rate not exceeding 8,000 cubic meters per hour with inlet diameter not exceeding 200 mm) because this is the HTS subheading that best describes the drain pump part.
- The value and quantity data from HTS subheading 8413.70.41.000 are not aberrational because they are well within the range of values and quantities obtained from other HTS subheadings within the HTS general heading 8413.70.
- The HTS subheading used in the *Preliminary Determination* to value these parts more accurately describes these parts than the HTS subheading now proposed by LG.
- Whirlpool provides no comments with respect to the HTS subheading designation for the other two part numbers which are motors without drain pumps rather than drain pumps.

Department's Position:

In the *Preliminary Determination*, the Department used data from HTS 8413.70.41.000[153] to value all three part numbers based on the description of the part and the HTS subheading proposed by LG in its June 10, 2016, SV submission.

We found at verification that two[154] of the three part numbers are actually motors, rather than motor pump assemblies, and each of these motors have an output less than 750 watts.[155] Therefore, for these two motor part numbers, we have used data from HTS subheading

[153] HTS 8413.70.41.000 includes "Other centrifugal pumps: Other water pumps, with a flow rate not exceeding 8,000 metric tons per hour: with inlet diameter not exceeding 200 millimeters."
[154] These two part numbers are 4681EA2001T and EAU61383503.
[155] See LG FOP Verification Report at page 10 and Exhibit 5L.

8501.31.30.000[156] to value them in the final determination. The description of this HTS subheading (*e.g.*, motors having an output not exceeding 750 watts and also used for washing machines covered by HTS heading 8450), unlike that of HTS subheading 8413.70.41.000 (water pumps with a flow rate not exceeding 8,000 cubic meters per hour with inlet diameter not exceeding 200 mm), is more specific to the input based on the data examined at verification for these part numbers.

Regarding the motor pump part, our verification findings confirm that this part[157] is a non-submersible motor pump assembly, as opposed to a completely knocked down (or disassembled) non-submersible motor pump assembly.[158] Also, both LG and Whirlpool agree that this motor pump part falls under an HTS subheading within HTS heading 8413.70. HTS subheading descriptions provide that HTS subheading 8413.70.41.000 includes non-submersible motor and pump assemblies with a flow rate not exceeding 8,000 cubic meters per hour and an inlet diameter not exceeding 200 mm. HTS subheading 8413.70.41.999 includes non-submersible motor pumps with the same dimensions but are completely knocked down, as opposed to fully assembled.

As explained in Comment 14 above, we have reconsidered the HTS subheading we used in the *Preliminary Determination* for drain pumps, and we find that it is more accurate to use an HTS category that covers non-submersible drain pumps, based on our verification findings.

HTS subheading 8413.70.41.000 covers a wide range of assembled non-submersible motor and pump assemblies with a flow rate not exceeding 8,000 cubic meters per hour and an inlet diameter not exceeding 200 mm, and provides a value per piece, while HTS subheading 8413.70.41.999 covers completely knocked down, non-submersible motor pumps of the same specifications, but provides a value per kilogram. Our verification findings indicate that LG's drain pump falls at the lower end of the range in terms of flow rate and inlet diameter.[159]

In determining whether the distinction between assembled and disassembled pumps is significant, we looked to the schematic for LG's drain pump part number. The schematic indicates that assembly is a simple process involving connecting the drain pump piece to the case pump piece with tapping screws.[160] Therefore, it is clear from the drain pump's schematic that the assembly process for this pump is insignificant, and we have taken this fact into account in our determination.

Regarding whether a value expressed in pieces as opposed to a value expressed in kilograms better reflects the value of the part at issue, absent information regarding the specific pumps included in the HTS subheadings, and considering the information on the record with respect to the characteristics of pumps,[161] we conclude that there is a correlation between the size and weight of these parts. We verified that the drain pump at issue is hand-held, and weighs 0.77

---

[156] HTS subheading 8501.31.30 includes "Motors of a kind used for goods of heading 84.15, 84.18, 84.50, 85.09 or 85.16."
[157] This part number is 4681EA1007A.
[158] *See* LG FOP Verification Report, at page 10 and Exhibit 5L and 14B.
[159] *Id*.
[160] *Id*.
[161] *Id.*; and Samsung FOP Verification Report at page 10 and Exhibit 5D-9.

kilograms.[162] Because the HTS categories cover a wide range of sizes (which are determined by the inflow capacity and inlet diameter), we believe that selecting a weight-based SV in this instance would minimize the potential for distortion that could result when using a per-piece-based SV. For this reason, and because we determine that the assembly process is minor, we used HTS subheading 8413.70.41.999 to value LG's drain pump assembly in the final determination.

With respect to LG's contention that the Department should use its Thai affiliate's purchase price for the motor pump as a benchmark for purposes of determining the reliability and accuracy of the motor pump value from HTS subheading 8413.70.40.000, we are not relying on such information in our analysis as this information is proprietary in nature (*i.e*. not publicly available) and does not represent a broad market average but rather only the experience of one company.

Comment 26: Water Level Controller Assembly

LG's Case Brief

- The Department used an HTS subheading (*i.e.*, 9032.89.39.090[163]), which does not include washer parts, to value three water level controller assembly parts[164] in the *Preliminary Determination*.
- These parts are only measuring devices and do not also have controlling or starting and stopping functions, which are requirements for inclusion in this HTS subheading.
- If the Department does not use HTS subheading 8450.90 to value these parts, then it should value these parts using HTS subheading 8543.70.90[165] which includes only measuring devices.
- The value obtained from this HTS subheading to value these inputs more closely resembles the acquisition costs of LG's Thai affiliate.

Whirlpool's Rebuttal Brief

- The Department should continue to use the HTS subheading used in the *Preliminary Determination* to value these parts.
- There is no value on the record for the HTS subheading (8543.70.90) proposed by LG.
- The explanatory notes for HTS general heading 9032 state that the HTS subheadings included in this HTS general heading include measuring devices such as the parts at issue, as well as controlling devices and starting and stopping devices.

Department's Position:

In the *Preliminary Determination*, the Department used data from HTS 9032.89.39.090 to value LG's three water level controller assembly part numbers based on the petitioner's characterization of the parts at issue. The schematic and pictures for one of these three water level controller assembly part numbers indicates that this part transmits signals to other parts in

---

[162] *See* LG FOP Verification Report at Exhibit 13.

[163] HTS 9032.89.39.090 includes "Automatic regulating or controlling instruments and apparatus: Other instruments and apparatus: Other: Other, electrically operated: Other."

[164] These water level controller assembly parts are 6501EA1001R, 6601ER1006G, and 6601ER1006W.

[165] HTS subheading 8543.70.90 includes "Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this Chapter {85}: Other machines and apparatus: Other."

order to control the water supply. This part does not appear to have automatic control functions but rather senses water levels and vibrations.[166]

The explanatory notes for Chapter 90 (*e.g.*, HTS heading 9032) provide that parts included in HTS subheading 9032 must have all three of these capabilities: (1) the ability to automatically control the flow level or pressure or temperature of liquids and/or gases ; (2) the ability to measure the variable (*i.e.*, gas or liquid) being controlled; and (3) the ability to start, stop or operate.[167] As the parts at issue only transmit signals to other parts, we do not find that these parts are included in HTS subheading 9032.89.39.090 because they do not control, measure or self-operate.

Regarding HTS subheading 8543.70.90 ("Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this Chapter {85}: Other machines and apparatus: Other."), this HTS subheading appears to include electrically-operated apparatus whose individual function is otherwise not covered by HTS subheadings included in Chapter 85. In addition, contrary to the petitioner's claim, valuation data for this HTS subheading is on the record of this investigation.[168] Therefore, we have used data from HTS subheading 8543.70.90 to value these part numbers in the final determination because the description of this HTS subheading, unlike HTS subheading 9032.89.39.090, is more specific to the part.

With respect to LG's contention that the Department should use its Thai affiliate's purchase price of water level controller assemblies as a benchmark for purposes of determining the reliability and accuracy of the value from HTS subheading 8543.70.90, we are not relying on such information in our analysis as this information is not publicly available and does not represent a broad market average.

Comment 27: Temperature Sensor

LG's Case Brief

- The temperature sensor is a small integrated sensor part rather than a measuring device, and the Department incorrectly used an HTS subheading for a stand-alone measuring device under Chapter 90, rather than a sensor device, to value this part[169] in the *Preliminary Determination*.
- The Department should value this part using HTS subheading 8543.70.90[170] which includes only measuring devices that do not have control or starting/stopping functionality.
- The value obtained from this HTS subheading to value this input more closely resembles the acquisition costs of LG's Thai affiliate.

[166] *See* LG's June 30, 2016, SV Submission at Exhibit SV3-1.
[167] *See* LG's June 10, 2016, SV Submission at Exhibit 20.
[168] *See* LG's June 20, 2016, SV Submission at Exhibit SV2-1 and SV2-2.
[169] This part number is EBD50360202.
[170] HTS subheading 8543.70.90 includes "Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this Chapter {90}: Other machines and apparatus: Other."

Whirlpool's Rebuttal Brief

- The Department should continue to use the HTS subheading used in the *Preliminary Determination* to value these parts.
- The explanatory notes for HTS general heading 9032 state that the HTS subheadings included in this HTS general heading include measuring devices such as these parts, as well as controlling devices and starting and stopping devices.
- The HTS subheading proposed by LG is less specific than the HTS subheading used in the *Preliminary Determination*.

Department's Position:

In the *Preliminary Determination*, the Department used data from HTS 9032.89.39.090[171] to value this part based on data contained in LG's June 10, 2016, SV Submission.

The picture of this part on the record indicates that it does not have an IC (necessary to control temperature).[172] Therefore, this part appears to only be able to sense and monitor, rather than control or measure, temperature.

HTS subheading 8543.70.90 ("Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this Chapter {85}: Other machines and apparatus: Other") appears to include electrically-operated apparatus, such as temperature sensors, whose individual function is otherwise not covered by HTS subheadings included in Chapter 85. This pressure sensor does not appear to be included in HTS subheading 9032.89.39.090 because it does not have all three functions specified in the explanatory notes for Chapter 90.[173] In addition, contrary to the petitioner's claim, valuation data for this HTS subheading are on the record of this investigation.[174] Therefore, we have used data from HTS subheading 8543.70.90 to value this part number in the final determination because the description of this HTS subheading is more specific to the part than that of HTS subheading 9032.89.39.090.

With respect to LG's contention that the Department should use its Thai affiliate's purchase price for a pressure sensor as a benchmark to determine the reliability and accuracy of the value from HTS subheading 8543.70.90, we are not relying on such information in our analysis as this information is not publicly available and does not represent a broad market average.

Comment 28: Printed Circuit Boards (PCBs)

LG's Case Brief

- The HTS subheading for single-sided PCBs which the Department used to value bare-sided PCBs in the *Preliminary Determination* is not reliable, as the value is nine times greater than

[171] HTS 9032.89.39.090 includes "Automatic regulating or controlling instruments and apparatus: Other instruments and apparatus: Other: Other, electrically operated: Other."
[172] *See* Whirlpool's May 9, 2016, Submission which includes a picture of the temperature sensor included in LG's washer model number WT1101CW.
[173] The three functions are: (1) the ability to automatically control the flow level or pressure or temperature of liquids and/or gases; (2) the ability to measure the variable (*i.e.*, gas or liquid) being controlled; and (3) the ability to start, stop or operate.
[174] *Id.*

the value obtained from Thai GTA data to value a double-sided PCB; the double-sided PCB value should be more, rather than less, expensive than the value for a single-sided PCB.

- The Department should incorporate its verification findings[175] with respect to LG's reporting of its PCBs (*i.e.*, single vs. double-sided) as reflected in its July 6, 2016, submission.
- To value single-sided PCBs, the Department should use either the price which LG's affiliate in Thailand paid to purchase a bare-sided PCB, or the value from the HTS subheading for double-sided PCBs.

Whirlpool's Rebuttal Brief

- The Department should use the HTS subheading for single-sided PCBs to value LG's single-sided PCBs and use the HTS subheading for double-sided PCBs to value LG's double-sided PCBs because each HTS subheading precisely identifies the part at issue.
- LG's claim that double-sided PCBs are more expensive than single-sided PCBs is not supported by evidence on the record.

Department's Position:

In the *Preliminary Determination*, the Department used data from HTS 8534.00.10.000[176] to value this part because this HTS subheading includes only single-sided PCBs.

In its July 5, 2016, submission, LG indicated that it misreported certain of its PCB part numbers as double-sided PCBs, rather than single-sided PCBs, in its June 10, 2016, SV database. As this submission was filed too late for consideration in the *Preliminary Determination*, we examined LG's corrections at verification. Our verification findings confirm that there are 10 single-sided PCB part numbers in LG's SV database we are valuing in the final determination.[177]

The HTS subheading descriptions provide that HTS subheading 8534.00.10.000 includes single-sided PCBs, and HTS subheading 8534.00.20.000 includes double-sided PCBs. LG's argument that the value for single-sided PCBs from HTS subheading 8534.00.10.000 is unrepresentative because it is nine times more than the value for double-sided PCBs from HTS subheading 8534.00.20.000, is unpersuasive based on the data contained in this record. Specifically, LG has not demonstrated that the single-sided PCB value from HTS subheading 8534.00.10.000 does not represent a broad market average of PCB boards or that the price of such boards using the HTS subheading data is unreliable. Furthermore, there is no record evidence to support LG's assertion that a single-sided PCB will have half as many metallic parts as a double-sided PCB and therefore single-sided PCBs should be less expensive. LG has not pointed to any historical Thai HTS data on PCBs or HTS data on PCBs from other countries on the economically comparable countries list demonstrating the price relationship LG asserts to be true. The Department cannot see behind the HTS code import data on the record to determine what products within the relevant HTS subheadings were actually imported, and therefore the

[175] LG claims that PCB part numbers EAX64643901 and EAX65683701 are double-sided (rather than single-sided per the Department's verification report at Exhibit 5J) and these two parts should be valued using data of double-sided PCBs from HTS subheading 8534.00.20.000.
[176] HTS 8534.00.10.000 includes "Printed Circuits: Single-Sided."
[177] *See* LG FOP Verification Report at page 10 and Exhibit 5J.

Department limits its examination of each HS code to the description in its heading,[178] which in this case makes no mention of the relative number of metallic components, or the size (*e.g.*, length) of the PCB, for either double or single-sided PCBs. There is no information in these HTS headings or anywhere on the record indicating that single-sided PCBs have half as many metallic components as double-sided PCBs, or that the amount of metallic components contained in a PCB is what determines its ultimate market price. With respect to LG's contention that the Department should use its Thai affiliate's purchase price of single-sided PCBs as a benchmark to determine the reliability and accuracy of the singled-sided PCB value from HTS subheading 8534.00.10.000, we are not relying on such information in our analysis, as this information is proprietary and does not represent a broad market average.

Therefore, we have continued to use data from HTS subheading 8534.00.10.000 to value LG's single-sided PCB part numbers in the final determination, because the description of this HTS subheading, unlike HTS subheading 8534.00.20.000, includes single-sided PCBs and is more specific to the input based on the data examined at verification for these part numbers. For LG's double-sided PCBs, we have used Thai HTS subheading 8534.00.20.000, which includes double-sided PCBs, as this HTS category is more specific to those parts.

Comment 29: Top Load Aluminum Inner Tub Base

LG's Case Brief

- The Department should not use an HTS subheading for articles of aluminum to value the top load aluminum inner tub base, but instead should use HTS subheading 8450.90, because this part is a highly-engineered and specialized part for LRWs.
- The Department's verification findings indicate that this part is a tub part which underwent numerous tests designed to determine this part's ability to withstand washer machine conditions.[179] This indicates the part should be treated just like a tub back or tub front part which the Department valued with data from HTS subheading 8450.90 in the *Preliminary Determination*.
- A July 19, 2003, ruling from CBP on a nearly identical part made by a Mexican LRW exporter supports treating this part as a washer part included in HTS subheading 8450.90.[180]
- The values obtained from HTS subheading 8450.90 to value this input more closely resemble the acquisition costs of its Thai affiliate.

Whirlpool did not comment on this issue.

Department's Position:
In the *Preliminary Determination*, the Department used data from HTS 7616.99.99.090[181] to value this part based on its material composition. At verification, we found that the inner tub base is part of the drum.[182]

---

[178] *See Steel Wire Garment Hangers From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 80 FR 13332 (March 13, 2015), and accompanying Issues and Decisiom Memorandum at Comment 2.
[179] *See* LG FOP Verification Report at Exhibit 5M.
[180] *See* LG's June 10, 2016, SV submission at Exhibit 22.
[181] HTS 7616.99.99.090 includes "Other articles of aluminum: Other: Other: Other: Other: Other."

Based on our verification findings, therefore, we are no longer valuing this item based on its material composition. Instead, we consider this item a part of the drum (also referred to as a tub) which is specifically included in HTS subheading 8450.90, and accordingly have used data from HTS subheading 8450.90 (which includes tub parts) to value the inner tub base in the final determination.

Comment 30: Hose Assembly

LG's Case Brief

- If the Department does not use HTS subheading 8450.90 to value hose assembly parts, then it should value the four plastic hose assembly parts[183] using HTS subheading 3917.32.90,[184] and value its one rubber hose assembly part[185] using HTS subheading 4009.21.90.000.[186]
- The GTA value the Department used to value these parts in the *Preliminary Determination* is significantly more than the range of prices LG's Thai affiliate paid for these same parts.

Whirlpool's Rebuttal Brief

- For the four plastic hose assembly parts, the Department should continue to value them using the HTS subheading (*e.g.*, hoses with fittings) from the *Preliminary Determination*, as there is no evidence on the record that these parts do not have fittings which would necessarily place them in a different HTS subheading.
- For the rubber hose assembly part, there is no information on the record which demonstrates the part is made of reinforced rubber and this information determines the appropriate HTS subheading for this part.
- The Department should use data from HTS subheading 4009.12.90.000 to value this part based on the information provided by LG in its questionnaire responses.

Department's Position:

In the *Preliminary Determination*, the Department used data from HTS 3917.33.00.000[187] to value all of LG's hose assembly part numbers based on the material composition of the parts as reflected in LG's bill of materials (BOM) for these parts numbers.

Regarding hose assembly part number AEM73652901, data obtained at verification indicate that this hose assembly part number is made of reinforced rubber, rather than plastic, and has snaps and rings, rather than fittings.[188] Therefore, for the final determination we valued this part using data from HTS subheading 4009.21.90.000 because the description of this HTS subheading (*e.g.*, reinforced rubber hose without fittings), unlike that of HTS subheading 3917.33.00.000 (*e.g.*,

---

[182] *See* LG FOP Verification Report at Exhibit 5M.
[183] The plastic hose assembly parts are 5214EN3042Z, 5215ER2002G, AEM73773301, and AEM74073301.
[184] HTS subheading 3917.32.90 includes "Tubes, pipes and hoses, and fittings therefor, of plastics: Other tubes, pipes, and hoses: Other, not reinforced or otherwise combined with other materials, without fittings: Other."
[185] The rubber hose assembly part is AEM73652901.
[186] HTS subheading 4009.21.90.000 includes "Tubes, pipes, hoses of vulcanized rubber other than hard rubber, with or without their fittings: Reinforced or otherwise combined only with metal: Without fittings: Other."
[187] HTS subheading 3917.33.00.000 includes "Tubes, pipes and hoses, and fittings thereof, of plastics: Other tubes, pipes and hoses: Other, not reinforced or otherwise combined with other materials, with fittings."
[188] *See* LG FOP Verification Report at Exhibit 14B at pages 63-68.

reinforced rubber hose with fittings), is more specific to the part based on the data examined at verification for this part.

For one of the four plastic hose assembly part numbers (*i.e.*, 5214EN3042Z), data obtained at verification indicate that this hose assembly part number is made of plastic and has clamps and an elbow (*i.e.*, a fitting).[189] Therefore, we have continued to use data from HTS subheading 3917.33.00.000 because the description of this HTS subheading (*e.g.*, plastic hose with fittings), unlike that of HTS subheading 3917.32.90.000 (*e.g.*, plastic hose without fittings), is more specific to the part based on the data examined at verification for this part.

For the other three plastic hose assembly part numbers, absent information indicating that these parts do not have fittings, we continued to value them using data from HTS subheading 3917.33.00.000 in the final determination.

With respect to LG's contention that the Department should use its Thai affiliate's purchase price of the plastic hose assembly as a benchmark for purposes of determining the reliability and accuracy of the plastic hose assembly value from its proposed HTS subheading, we cannot consider such information in our analysis as this information is proprietary and does not represent a broad market average.

Comment 31: Electrical Connector

LG's Case Brief

- The information[190] submitted by the petitioner which the Department relied on for purposes of selecting the HTS subheading used to value 37 electrical connector part numbers in the *Preliminary Determination* relates to electrical connectors not made by LG.
- The HTS subheading the Department used to value these parts in the P*reliminary Determination* (HTS subheading 8536.69.32.000)[191] is for electrical connectors which are also plugs used in PCBs; LG's electrical connectors are not plugs but rather parts which are mounted onto plugs, and not all of them are used in PCBs, according to the Department's verification findings.
- The correct HTS subheading for these parts is 8536.90.00.00, but because there is no Thai GTA data for this HTS subheading on the record, the Department should instead use GTA data for HTS subheading 8536.50.99.000[192] (which is on the record) to value these parts.
- The value obtained from HTS subheading 8536.50.99.000 to value these parts more closely resembles the acquisition costs of LG's Thai affiliate.

---

[189] *Id.* at Exhibit 14A at pages 36-39.
[190] *See* Whirlpool's June 10, 2016, submission at Attachment 4-C.
[191] HTS subheading 8536.69.32.000 includes "Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp-holders, and other connectors, junction boxes), for a voltage not exceeding 1,000 volts; connectors for optical fibres, optical fibre bundles or cables: Other: Telephone plugs for a current less than 16A.
[192] HTS subheading 8536.50.99.000 includes "Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp-holders, and other connectors, junction boxes), for a voltage not exceeding 1,000 volts; connectors for optical fibres, optical fibre bundles or cables: Other switches: Other: Lamp-holders, plugs, and sockets."

Whirlpool's Rebuttal Brief

- For 36 electrical connector part numbers, the Department should continue use the HTS subheading used in the *Preliminary Determination* to value them based on its verification findings for part number 6630V00005A.
- The Department should use HTS subheading 8536.69.92.000 to value electrical connector part number 6800KW3005A (*i.e.*, the electrical connector that attaches to a stator) based on the Department's verification finding with respect to this part number.

Department's Position:
In the *Preliminary Determination*, the Department used data from HTS 8536.69.32.000 to value LG's 37 electrical connector part numbers based on the information submitted by the petitioner in its June 10, 2016, SV submission.

At verification, for two of LG's 37 electrical connector part numbers, we examined data indicating that these part numbers function as plugs and have no definable amperage capacity.[193] Furthermore, the BOM data that LG provided on the record for all 37 part numbers also do not indicate an amperage capacity.[194] For the other 35 electrical connector part numbers, based on our verification sampling results noted above, we are treating these items as also functioning as plugs.

After a further examination of the description for the proposed HTS subheadings and the input part numbers at issue, we have used data from HTS subheading 8536.50.99.000[195] to value all 37 of LG's electrical connector part numbers in the final determination because the description of this HTS subheading, unlike that of HTS subheading 8536.69.32.000 (*i.e.*, an HTS subheading which includes plugs specifically used for telephones), is more specific to the input.

With respect to LG's contention that the Department should use its Thai affiliate's purchase price of the electrical connector as a benchmark for purposes of determining the reliability and accuracy of the electrical connector value from its proposed HTS subheading, we cannot consider such information in our analysis as this information is proprietary and does not represent a broad market average.

Comment 32: Rubber Gasket

LG's Case Brief

- The HTS subheading (*i.e.*, 4016.93[196]) proposed by LG which the Department used to value 18 rubber gasket part numbers in the *Preliminary Determination* is not accurate.

---

[193] *See* LG FOP Verification Report at page 11 and Exhibit 5O. The verification report inadvertently indicated that the schemata for these parts noted the amperage capacity, when in fact they do not.
[194] *See* LG's April 18, 2016, Section D Response at Exhibit D-08.
[195] HTS subheading 8536.50.99.000 includes "Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp-holders, and other connectors, junction boxes), for a voltage not exceeding 1,000 volts; connectors for optical fibres, optical fibre bundles or cables: Other switches: Other: Lamp-holders, plugs, and sockets."
[196] HTS subheading 4016.93 includes "Other articles of vulcanized rubber other than hard rubber: Gaskets, washers and other seals."

- The Department should instead use data from HTS subheading 4016.99.59[197] to value these parts because this HTS subheading is more specific than the HTS subheading used to value these parts in the *Preliminary Determination*.
- The value obtained from HTS subheading 4016.99.59 to value these parts more closely resembles the acquisition costs of LG's Thai affiliate.

Whirlpool's Rebuttal Brief

- The Department should continue use the HTS subheading used in the *Preliminary Determination* to value these parts because this HTS subheading more accurately describes these parts than does the HTS subheading proposed by LG.

Department's Position:

In the *Preliminary Determination*, the Department used data from HTS 4016.93 to value these parts based the description of these parts and the HTS subheading proposed by LG in its June 10, 2016, SV submission.

LG now proposes a different HTS subheading to value these parts, and makes unsubstantiated arguments about the functions of the parts at issue to advocate for a different HTS subheading. However, because we did not select this part for further examination at verification and have no additional record information upon which to re-evaluate the HTS subheading designation for this part, we have continued to rely on data from HTS 4016.93 to value this part in the final determination.

Comment 33: Washer Door Hinge Assembly

LG's Case Brief:

- The Department should not use an HTS subheading (*i.e.*, 8302.10.00.000 [198]) for metal mountings and fittings suitable for furniture to value the part numbers reported for the washer door hinge assembly, but rather, it should use HTS subheading 8450.90 to value this part because it is a highly-engineered and specialized part made specifically for LRWs.
- A Netherlands customs ruling dated October 22, 2014, treated these parts as classifiable under HTS subheading 8450.90.[199]

Whirlpool's Rebuttal Brief

- The Department should continue to use the HTS subheading used in the *Preliminary Determination* to value these parts because this HTS subheading more accurately describes these parts than the HTS subheading proposed by LG.

Department's Position:

In the *Preliminary Determination*, the Department used data from HTS subheading 8302.10.00.000 to value LG's 15 hinge assembly part numbers.

---

[197] HTS subheading 4016.99.59 includes "Other articles of vulcanized rubber other than hard rubber: Other: Other: Other articles of a kind used in… electrical appliances, or for other technical uses: Other."

[198] HTS 8302.10.00.000 includes "Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like: Hinges."

[199] *See* LG's June 30, 2016, submission at Exhibit SV3-2.

Data on the record of this case indicate that some of LG's hinge assemblies have spring action features similar to automatic door openers.[200] Other data on the record indicate that LG's hinge assemblies are complex, rather than simple, in design and can only be used in washing machines.[201] In determining which proposed HTS subheading includes these complex hinge assemblies, we note that valuation data for LG's proposed HTS subheading 8320.60.00.000 are not on the record of this case and therefore using this subheading is not an option.

As LG's hinge assemblies have complex design features and are designed for washing machines rather than for items specifically identified in the description of HTS subheading 8302.10.00.000, we have used data from HTS subheading 8540.90 to value these hinge assemblies in the final determination. The description of this HTS subheading, unlike that of HTS subheading 8302.10.00.000, is more specific to the input based on the data on the record of this case for these part numbers.

Comment 34: Shaft Housing Assembly (also known as a Flange Shaft Spider)

Whirlpool's Case Brief

- The HTS subheading which the Department used to value two shaft housing assembly parts in the *Preliminary Determination* is not the most appropriate HTS subheading for these parts because, according to the Department's verification findings, these parts consist of not just a shaft (made of steel) but also a flange (made of aluminum).[202]
- The Department should use data from HTS subheading 7616.99.99.090 (*i.e.*, the HTS subheading for articles of aluminum) to value these parts because the flange, which is made of aluminum, is the more significant component by weight, and is the primary material of the shaft housing assembly.
- The Department should select the HTS subheading that corresponds to the primary raw material (*i.e.*, aluminum) of the dominant component (*i.e.*, flange) when selecting surrogate values.

LG's Rebuttal Brief

- The Department should continue to value these shaft housing assembly part numbers with the HTS subheading selected in the *Preliminary Determination*. This HTS subheading is more specific as it covers not only the shaft (which connects the motor to the rotating component), but also all the other complex power transmission components, including shaft couplings or connecting devices.
- Documentation on the record demonstrates that this is a highly specialized part[203] which would be best grouped in a more precise HTS subheading (*i.e.*, 8483.10.90.000[204] used in the

[200] See LG's June 20, 2016, SV Submission at Exhibit SV2-4.
[201] *Id.*
[202] *See* LG FOP Verification Report at page 10 and Exhibit 5-D.
[203] *Id.* at Exhibit 5-D.
[204] HTS subheading 8483.10.90.000 includes "Transmission shafts (including cam shafts and crank shafts) and cranks; bearing housings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints)."

Preliminary Determination) as opposed to a less precise HTS subheading proposed by the petitioner.

- For purposes of deciding the most appropriate HTS subheading, this part should not be evaluated as two separate pieces but rather as one fully-assembled piece which LG purchased from its vendor.
- The claim that the flange, rather than the shaft, is the primary component of this part is without merit because the shaft is specifically designed to transmit power from the motor to the drum tub, whereas the flange functions more as a shaft coupling (or connecting device) which simply ensures a stable connection between the motor and drum tub.
- Even if this part was considered to be made just of aluminum, under the Thai Harmonized System it would be classified as a washing machine part because of its function. Thus, it would be grouped under HTS subheading 8450.90 because 8450.90 takes priority over articles in Chapter 76.

Department's Position:
In the *Preliminary Determination*, the Department used data from HTS 8483.10.90.000 to value these parts because we concluded that this HTS subheading contained transmission shafts. At verification, we found that LG's housing assembly is comprised of a shaft made of steel and a flange made of aluminum, and that the shaft and flange are purchased as an assembled shaft housing assembly.[205] Therefore, for the two housing assembly part numbers at issue, we have continued to use data from HTS subheading 8483.10.90.000 to value them in the final determination because the description of this HTS subheading (*e.g.*, transmission shafts including their couplings) is more specific to the part than a material-composition-specific HTS subheading which only accounts for one of the two parts included in the assembly. This surrogate value determination is consistent with that made for Samsung's shaft housing assemblies as described in Comment 19.

Comment 35: Microswitches

Whirlpool's Case Brief

- The HTS subheading which the Department used to value three microswitch parts in the *Preliminary Determination* is not the most specific HTS subheading for these parts based on the Department's verification findings.[206]
- All three part numbers are more accurately grouped in HTS subheading 8536.50.51.000[207] based on the fact that they all use less than 16 amperes to operate, as verified by the Department.

[205] *See* LG FOP Verification Report at page 10 and Exhibit 5D.
[206] *See* LG FOP Verification Report at page 10 and Exhibit 5I.
[207] HTS subheading 8536.50.51.000 includes "Other switches: Electronic AC switches consisting of optically coupled input and output circuits (insulated thyristor AC switches); electronic switches, including temperature protected electronic switches, consisting of a transistor and a logic chip (chip-on-chip technology) for a voltage not exceeding 1,000 volts; electromechanical snap-action switches for a current not exceeding 11A: For a current of less than 16 A."

LG's Rebuttal Brief

- LG agrees with the petitioner that one of the microswitch part numbers (*i.e.*, EBF36938901) is a snap action switch based on the Department's verification findings and therefore should be more appropriately included in HTS subheading 8536.50.51.000.
- The other two microswitch part numbers, which are not snap action switches, should continue to be included in the HTS subheading the Department assigned to them in the *Preliminary Determination* (*i.e.*, 8536.50.99[208]). There is no evidence on this record that these two part numbers have optically coupled input and output circuits or a transistor and a logic chip for a voltage not exceeding 1,000 volts; or use a current not exceeding 11 amperes.
- The value the Department obtained from the HTS subheading used in the *Preliminary Determination* to value the two part numbers at issue more closely resembles the acquisition costs of LG's Thai affiliate.

Department's Position:

In the *Preliminary Determination*, the Department used data from HTS 8536.50.99 to value LG's three microswitch part numbers based on the data contained in LG's June 10, 2016, SV submission.

Our verification findings for one of these part numbers, EBF36938901, indicate that this microswitch is a snap action switch (*e.g.*, a push-button switch) which takes less than 16 amperes to operate.[209] Therefore, for this microswitch part number, we used data from HTS subheading 8536.50.51.000 to value it in the final determination, because the description of this HTS subheading (which includes push-button switches that require less than 16 amperes to operate), unlike HTS subheading 8536.50.99, is more specific to the part based on the data examined at verification for this part.

Regarding the other two microswitch part numbers at issue, the Department's verification findings indicate that neither of these part numbers are snap action switches. Moreover, there is no discernible data in the schematic or information obtained for either part number to indicate whether or not either switch has optically coupled input and output circuits or a transistor and a logic chip.[210] All of these items (*i.e.*, snap action feature, input/output circuits, and a transistor/logic chip) are features of switches included in HTS subheading 8536.50.51.000. Accordingly, we do not find HTS suheading 8536.50.51.000 to be the best available information for these two other microswitch part numbers. Rather, we continued to use data from HTS subheading 8536.50.99 to value these two microswitch part numbers in the final determination, because this subheading, unlike HTS subheading 8536.50.51.000, is the best available information on the record for valuing these input part numbers.

With respect to LG's contention that the Department should use its Thai affiliate's purchase price of a microswitch as a benchmark for purposes of determining the reliability and accuracy of the

---

[208] HTS subheading 8536.50.99 includes "Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lampholders and other connectors, junction boxes), for a voltage not exceeding 1,000 volts; connectors for optical fibres, optical fibre bundles or cables: Other switches: Other."

[209] *See* LG FOP Verification Report at page 10 and Exhibit 5I.

[210] *Id.* at Exhibit 5I.

microswitch from its proposed HTS subheading, we are not relying on such information in our analysis as this information is proprietary and does not represent a broad market average.

Comment 36: Brackets

Whirlpool's Case Brief

- The Department should use HTS subheading 3926.90.99.090[211] (an HTS subheading for articles of plastic) rather than the HTS subheading for articles of steel that it used to value three bracket part numbers[212] in the *Preliminary Determination*, because the Department found at verification that these parts are made of plastic.[213]
- For LG's other 22 bracket part numbers made of steel, the Department should use HTS subheading 8302.50.00.000[214] (an HTS subheading which includes base metal mountings and brackets) rather than HTS subheading 7326.19.00.000[215] (an HTS subheading for articles of iron or steel) used in the *Preliminary Determination*, because HTS subheading 8302.50.00.000 is more specific to the steel brackets.

LG's Rebuttal Brief

- Whirlpool's proposed HTS subheading for the 22 steel bracket part numbers is no more product-specific than the HTS subheading the Department used to value these part numbers in the *Preliminary Determination*.
- The word "bracket" in the description for HTS subheading 8302.50.00.000 cannot be viewed in isolation, as its proposed subheading includes mountings such as hat-racks and hat-pegs, which are completely unrelated to washer steel brackets.
- The Department should value the 22 steel and three plastic bracket part numbers using data from HTS subheading 8450.90 because these steel brackets are highly engineered parts specific to LRWs, as the documentation examined at verification confirms, rather than fittings made of different materials and designed for general use, which are included in HTS general heading 8302.
- The end notes for HTS general heading 8302 state that, for specialized parts such as these, heading 8450.90 takes priority over articles in Chapter 83.
- The value from HTS subheading 8450.90 more closely resembles LG's Thai affiliate's acquisition costs for the steel and plastic brackets.
- If the Department does not use HTS subheading 8450.90 to value these parts, then it should continue to value the steel bracket part numbers with data from HTS subheading 7326.19.00.000.

---

[211] HTS subheading 3926.90.99.090 includes "Other articles of plastics and articles of other materials of heading 39.01 to 39.14: Other: Other: Other."

[212] These part numbers are 4810ER3021A, MAZ63472802, and MAZ63472803.

[213] *See* LG FOP Verification Report at page 10 and Exhibit 5F.

[214] HTS subheading 8302.50.00.000 includes "Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like; base metal hat-racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal: Hat-racks, hat-pegs, brackets and similar fixtures."

[215] HTS subheading 7326.19.00.000 includes "Other articles of iron and or steel, forged or stamped, but not further worked."

Department's Position:
In the *Preliminary Determination*, the Department used data from HTS 7326.19.00.000 to value LG's 25 bracket part numbers.

For three of these part numbers, our verification findings indicate that these parts are made of plastic, rather than steel.[216] Therefore, we have valued LG's three plastic bracket part numbers using data from HTS subheading 3926.90.99.090 for the final determination because we find that these bracket part numbers are articles of plastic, and HTS subheading 3926.90.99.090 includes such articles of plastic.

As for steel brackets, at verification we examined data for eight of LG's 22 steel bracket part numbers; these data indicate that these part numbers are brackets stamped out of steel.[217] For the other 14 steel bracket part numbers, based on our verification sampling results noted above, we are treating these items too as brackets stamped out of steel.

After a further examination of the description for the proposed HTS subheadings and the steel bracket part numbers at issue, we have continued to use data from HTS subheading 7326.19.00.000 to value all 22 of LG's steel bracket part numbers in the final determination because the description of this HTS subheading, unlike that of HTS subheading 8302.50.00.000 (*i.e.*, an HTS subheading which includes brackets used for specific products other than washing machines as noted in the HTS subheading description), is more specific to the input.

Comment 37: Concrete Counterweights (as known as Weight Balancers)

Whirlpool's Case Brief

- The HTS subheading (*i.e.*, HTS subheading 6810.19.90[218]) which the Department used to value the four concrete counterweight part numbers in the *Preliminary Determination* is not the most specific HTS subheading for these parts based on the Department's verification findings.[219]
- These parts are more accurately grouped in HTS subheading 6810.99.00.000 based on the fact that they are not for outdoor applications (like molded bricks) covered by HTS subheading 6810.19.90

LG's Rebuttal Brief

- The Department should continue to consider these parts to be included in the HTS subheading used in the *Preliminary Determination* because this HTS subheading includes non-building bricks or articles similar to bricks like the counterweights used in LG's LRWs.
- Concrete bricks used in LRWs may in fact have the same composition as patio bricks, and if this is correct, Whirlpool's conclusion that HTS subheading 6810.99.00.000 does not also include molded bricks is pure speculation.

---

[216] *See* LG FOP Verification Report at page 10 and Exhibit 5F.
[217] *Id.* at page 11 and Exhibit 5F.
[218] HTS subheading 6810.19.90 includes "Articles of cement, of concrete or of artificial stone, whether or not reinforced: tiles, flagstones, bricks and similar articles: Other: Other."
[219] *See* LG FOP Verification Report at Exhibit 5H.

Department's Position:
In the *Preliminary Determination*, the Department used data from HTS 6810.19.90 to value LG's counterweights (also known as weight balancers[220]) based on the results of our analysis that this HTS subheading was the most appropriate in terms of the material composition of the part.

At verification, we examined all of LG's counterweights and confirmed, based on their schemata,that these parts are made of cement (*i.e.*, inner composition) with an outer casing made of polypropylene.[221] In addition, we note that the fabrication of these parts does not appear to require pressure molding, but rather, a more simple process involving injection molding, and these parts serve simply as dead weights for balancing the weight in the washing machine.

Consistent with our treatment of this same part as reported by Samsung, we have determined that HTS subheading 6810.19.90 includes this part, because it includes articles of cement, of concrete or of artificial stone, whether or not reinforced: tiles, flagstones, bricks and similar articles that, like LG's weight balancers, are fabricated using relatively simple processes, based on our interpretation of the Explanatory Notes for Chapter 68 of the HTS. Therefore, data from this HTS subheading continues to be the best available information to value the counterweights in the final determination. Regarding HTS subheading 6810.99.00.000, this HTS heading appears to cover articles of concrete other than bricks and similar articles which may also include building material items requiring more complicated methods such as pressure molding to make, based on our interpretation of the Explanatory Notes for Chapter 68 of the HTS. Therefore, we do not find HTS subheading 6810.99.00.000 to be the best available information to value this part in this case.

Comment 38: By-Product Scrap

Whirlpool's Case Brief
- The Department should use a scrap, rather than a steel or stainless steel, surrogate value to value the steel and stainless steel scrap by-product offsets reported by LG, in accordance with Department's practice.
- The Department should use data from HTS subheading 7204.21.00.000[222] to value stainless steel scrap and data from HTS subheading 7204.29.00.000[223] to value steel scrap which is not stainless, cast iron, or alloy in content.
- There is no value information on the record for either of the proposed scrap HTS subheadings.

LG's Rebuttal Brief
- The Department should reject Whirlpool's argument to use data from a different HTS subheading than the HTS subheading the Department used in the *Preliminary Determination*

---

[220] The Department used data from HTS subheading 2523.21.00.000 to value Samsung's weight balancers in the *Preliminary Determination*.
[221] *See* LG FOP Verification Report at Exhibit 5H.
[222] HTS subheading 7204.21.00.000 includes "Ferrous waste and scrap, remelting scrap ingots of iron or steel: Of stainless steel."
[223] HTS subheading 7204.29.00.000 includes "Ferrous waste and scrap, remelting scrap ingots of iron or steel: Other."

to value scrap by-products, as Whirlpool should have mentioned this valuation item in its pre-verification comments, thus enabling the Department to examine it more closely at verification.

- Because Whirlpool decided to wait until the filing of its case brief to raise this issue, the Department should find Whirlpool's argument with respect to the most appropriate HTS subheading assignment for these parts to be without merit.
- In its June 20, 2016, SV submission,[224] LG provided: a stainless steel scrap value from HTS 7204.21.00.000; a tinned steel scrap value from HTS subheading 7204.30.00.000;[225] a steel shavings scrap value from HTS 7204.41.00.000;[226] and a steel scrap (other than shavings) value from HTS 7204.49.00.000.[227]

Department's Position:
As an initial matter, we disagree with LG that Whirlpool's argument lacks merit because it did not raise it until its case brief. 19 CFR 351.309(c)(2) states that case briefs "must present all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results." Whirlpool's argument concerns which information on the record is the best available to value LG's by-product scrap consistent with the Department's regulations. Whirlpool was not obligated to raise this argument in its pre-verification comments.

In the *Preliminary Determination*, we inadvertently valued LG's steel and stainless steel scrap part numbers using steel and stainless steel surrogate values, rather than using steel scrap and stainless steel scrap surrogate values. As noted above, and contrary to the petitioner's claim, LG submitted steel scrap and stainless steel scrap values for consideration in its June 20, 2016, SV submission.

For the final determination, we valued LG's stainless steel scrap part numbers using data from a stainless steel scrap HTS subheading (*i.e.*, HTS 7204.21.00.000) as this HTS subheading best reflects the scrap at issue.

For LG's steel scrap part numbers containing some type of rust-proof coating (e.g., galvanization, paint, etc.), we used data from a tinned steel scrap HTS subheading (*i.e.*, HTS subheading 7204.30.00.000) for the final determination. As "tinned" refers to a type of coating to prevent rust, this HTS subheading best reflects the scrap at issue.

For LG's single uncoated steel scrap part number,[228] we used data from a non-shavings steel scrap HTS subheading (*i.e.*, HTS subheading 7204.49.00.000) for the final determination, as this HTS subheading, unlike HTS subheading 7204.41.00.000 (a shavings steel scrap HTS

[224] *See* LG's June 20, 2016, SV submission at Exhibit SV2-3.
[225] HTS subheading 7204.30.00.000 includes "Ferrous waste and scrap; remelting scrap ingots of iron or steel; waste and scrap of tinned iron or steel."
[226] HTS subheading 7204.41.00.000 includes "Ferrous waste and scrap; remelting scrap ingots of iron or steel: Other waste and scrap: turnings, shavings, chips, milling waste, sawdust, filings, trimmings, and stampings, whether or not in bundles."
[227] HTS subheading 7204.49.00.000 includes "Ferrous waste and scrap; remelting scrap ingots of iron or steel: Other waste and scrap: Other."
[228] Part number RAA32860702S.

subheading) best reflects the scrap at issue and there is no information on the record to indicate that this scrap part number comprises shavings.

Comment 39: Steel Wire Clamps

Whirlpool's Case Brief

- The Department incorrectly used data from HTS subheading 7326.19.00.000[229] (an HTS subheading for forged or stamped iron or steel articles) to value five steel clamp part numbers in the *Preliminary Determination*, based on the assumption that these clamp part numbers were steel clamps rather than steel wire clamps.
- The BOM description LG provides for each of these five steel clamp numbers in its questionnaire response indicates that these steel clamps are made of steel wire, rather than simply steel.
- Because the five part numbers at issue are steel wire clamps, rather than steel clamps, the Department should use instead data from HTS subheading 7326.20.90.000[230] (an HTS subheading for iron or steel wire articles).

LG's Rebuttal Brief

- The Department should reject Whirlpool's argument to use data from a different HTS subheading than the HTS subheading the Department used in the *Preliminary Determination* to value these parts, as Whirlpool should have mentioned these parts in its pre-verification comments, thus enabling the Department to examine them more closely at verification.
- Because Whirlpool decided to wait until the filing of its case brief to raise this issue, the Department should find Whirlpool's argument with respect to the most appropriate HTS subheading assignment for these parts to be without merit.

Department's Position:

As an initial matter, we disagree with LG that Whirlpool's argument lacks merit because it did not raise it until its case brief. 19 CFR 351.309(c)(2) states that case briefs "must present all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results." Whirlpool's argument concerns which information on the record is the best available to value LG's steel wire clamps consistent with the Department's regulations. Whirlpool was not obligated to raise this argument in its pre-verification comments.

In the *Preliminary Determination*, the Department used data from HTS 7326.19.00.000 to value all part numbers that appeared to be steel clamps based on the description of the part and the HTS subheading proposed by LG in its June 10, 2016, SV submission.

Regarding the parts at issue, we re-examined the data submitted by LG in its questionnaire response and found that the five steel clamp part numbers at issue are made of steel wire rather than steel.[231]

[229] HTS subheading 7326.19.00.000 includes "Other articles of iron or steel: Forged or stamped, but not further worked: Other."

[230] HTS subheading 7326.20.90.000 includes "Other articles of iron or steel: Forged or stamped, but not further worked: Other: Articles of iron or steel wire: Other."

[231] *See*, e.g., LG's April 18, 2016, Section D Response at Exhibit D-08.

After further examination of the description for both HTS subheadings and the input part numbers at issue, we have used data from HTS subheading 7326.20.90.000 to value these steel clamp part numbers in the final determination because the description of this HTS subheading (articles of steel wire), unlike that of HTS subheading 7326.19.00.000 (articles of steel) is more specific to the input based on the data LG provided in its questionnaire response for this input.

Comment 40: Tapping Screws

Whirlpool's Case Brief

- The HTS subheading which the Department used to value LG's tapping screws in the *Preliminary Determination* (*i.e.*, 7318.15.00.000) is not the most specific subheading for these parts.
- These parts are more accurately grouped in HTS subheading 7318.14.00.000, which is a tapping screw subheading, and the Department should use this HTS subheading to value LG's tapping screws in the final determination.

LG's Rebuttal Brief

- The Department should reject Whirlpool's argument to use data from a different HTS subheading than the HTS subheading the Department used in the *Preliminary Determination* to value these parts, as Whirlpool should have mentioned these parts in its pre-verification comments, thus enabling the Department to examine them more closely at verification.
- Because Whirlpool decided to wait until the filing of its case brief to raise this issue, the Department should find Whirlpool's argument with respect to the most appropriate HTS subheading assignment for these parts to be without merit.

Department's Position:

As an initial matter, we disagree with LG that Whirlpool's argument lacks merit because it did not raise it until its case brief. 19 CFR 351.309(c)(2) states that case briefs "must present all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results." Whirlpool's argument concerns which information on the record is the best available to value LG's tappng screws consistent with the Department's regulations. Whirlpool was not obligated to raise this argument in its pre-verification comments.

In the *Preliminary Determination*, the Department used data from HTS 7318.15.00.000 covering tapping screws to value all of LG's 29 self-tapping screw part numbers based on the HTS subheading proposed by LG in its June 10, 2016, SV submission.

After a further examination of the description for both HTS subheadings at issue, and consistent with our treatment of this same part reported by Samsung, we have determined that HTS subheading 7318.14.00.000 (self-tapping screws), unlike HTS subheading 7318.15.00.000 (other thread screws), includes the parts at issue based on their description. Accordingly, we used data from this HTS subheading to value the tapping screws in the final determination.

Comment 41: Washer Mixed Trim Piece, Washer Trim Piece, and Trim Piece

Whirlpool's Case Brief

- The HTS subheading which the Department used to value LG's plastic trim pieces in the *Preliminary Determination* (*i.e.*, 3919.10.90.090[232]) is not the most specific HTS subheading for these parts based on the BOM information submitted by LG.
- These parts are more accurately grouped in HTS subheading 3926.90.99.090[233], which is a plastic articles subheading; the Department should use this HTS subheading to value LG's plastic trim piece part numbers in the final determination.

LG's Rebuttal Brief

- The Department should reject Whirlpool's argument to use data from a different HTS subheading than the HTS subheading the Department used in the *Preliminary Determination* to value these parts, as Whirlpool should have mentioned these parts in its pre-verification comments, thus enabling the Department to examine them more closely at verification.
- Because Whirlpool decided to wait until the filing of its case brief to raise this issue, the Department should find Whirlpool's argument with respect to the most appropriate HTS subheading assignment for these parts to be without merit.

Department's Position:
As an initial matter, we disagree with LG that Whirlpool's argument lacks merit because it did not raise it until its case brief. 19 CFR 351.309(c)(2) states that case briefs "must present all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results." Whirlpool's argument concerns which information on the record is the best available to value LG's washer mixed trim pieces, washer trim pieces, and trim pieces consistent with the Department's regulations. Whirlpool was not obligated to raise this argument in its pre-verification comments.

In the *Preliminary Determination*, the Department used data from HTS 3919.10.90.090 to value all of LG's plastic trim piece part numbers based on the preliminary finding that this HTS subheading was the most appropriate one for these parts as reflected in LG's June 10, 2016, SV database.

After re-examining the data submitted by LG in its questionnaire response, we find that LG's washer trim parts are comprised of molded pieces of plastic which are not self-adhesive.[234] Thus, we have used data from HTS subheading 3926.90.99.090, which does not mention self-adhesive plastics, to value these washer trim part numbers in the final determination because the description of this HTS subheading is more specific to the input than is HTS subheading 3919.10.90.090, which does include self-adhesive plastics.

---

[232] HTS subheading 3919.10.90.090 includes "Self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls of a width not exceeding 20 cm: Of polymers of vinyl chloride: Other."
[233] HTS subheading 3926.90.99.090 includes "Other articles of plastics and articles of other materials of heading 39.01 to 39.14: Other: Other: Other."
[234] *See*, e.g., pictures for six washer trim part numbers in LG's June 6, 2016, Section D Supplemental Response at Exhibits SQ1-1.

Comment 42: Leaf Spring and Leaf Hinge Spring

Whirlpool's Case Brief

- The HTS subheading which the Department used to value LG's two leaf hinge spring part numbers in the *Preliminary Determination* is not the most specific HTS subheading for these parts based on an interpretation of the various HTS subheadings within the general HTS heading applicable to these parts.
- These parts are more accurately grouped in HTS subheading 7320.10.90.000[235] rather than 7320.10.19.000[236] because the former category includes leaf hinge spring parts used for LRWs.

LG's Rebuttal Brief

- The Department should reject Whirlpool's argument to use data from a different HTS subheading than the HTS subheading the Department used in the *Preliminary Determination* to value these parts, as Whirlpool should have mentioned these parts in its pre-verification comments, thus enabling the Department to examine them more closely at verification.
- Because Whirlpool decided to wait until the filing of its case brief to raise this issue, the Department should find Whirlpool's argument with respect to the most appropriate HTS subheading assignment for these parts to be without merit.

Department's Position:

As an initial matter, we disagree with LG that Whirlpool's argument lacks merit because it did not raise it until its case brief. 19 CFR 351.309(c)(2) states that case briefs "must present all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results." Whirlpool's argument concerns which information on the record is the best available to value LG's leaf springs and leaf hinge springs consistent with the Department's regulations. Whirlpool was not obligated to raise this argument in its pre-verification comments.

In the *Preliminary Determination*, the Department used data from HTS 7320.10.19.000 to value LG's single leaf spring part number and single leaf hinge spring part number, based on its analysis that this HTS subheading best matched LG's reported information for this input as reflected in LG's June 10, 2016 SV database.

After a further examination of the description for both HTS subheadings at issue, we have used data from HTS subheading 7320.10.90.000 to value this input in the final determination because the description of this HTS subheading, unlike that of HTS subheading 7320.10.19.000, indicates that it includes leaf springs that could be used in the subject merchandise.[237]

---

[235] HTS subheading 7320.10.90.000 includes "Springs and leaves for springs, of iron or steel: Suitable for use on motor vehicles or machinery of heading 84.29 or 84.30: Other: Other."

[236] HTS subheading 7320.10.19.000 includes "Springs and leaves for springs, of iron or steel: Suitable for use on motor vehicles or machinery of heading 84.29 or 84.30: Other."

[237] HTS subheading 7320.10.19.000 refers to leaf springs that are suitable for use in products other than the subject merchandise.

Comment 43: Metal Nameplate

Whirlpool's Case Brief

- The HTS subheading which the Department used to value LG's eight nameplate part numbers in the *Preliminary Determination* is not the most specific HTS subheading for these parts based on an interpretation of the various HTS subheadings within the general HTS heading applicable to these parts.
- These parts are more accurately grouped in HTS subheading 8310.00.00.090[238] rather than 8310.00.00.000[239] because the former subheading includes nameplates used for LRWs whereas the latter HTS subheading does not include such items.

LG's Rebuttal Brief

- The Department should reject Whirlpool's argument to use data from a different HTS subheading than the HTS subheading the Department used in the *Preliminary Determination* to value these parts, as Whirlpool should have mentioned these parts in its pre-verification comments, thus enabling the Department to examine them more closely at verification.
- Because Whirlpool decided to wait until the filing of its case brief to raise this issue, the Department should find Whirlpool's argument with respect to the most appropriate HTS subheading assignment for these parts to be without merit.

Department's Position:

As an initial matter, we disagree with LG that Whirlpool's argument lacks merit because it did not raise it until its case brief. 19 CFR 351.309(c)(2) states that case briefs "must present all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results." Whirlpool's argument concerns which information on the record is the best available to value LG's metal nameplates consistent with the Department's regulations. Whirlpool was not obligated to raise this argument in its pre-verification comments.

In the *Preliminary Determination*, the Department used data from HTS 8310.00.00.000 to value LG's nameplate part numbers based on the its analysis at the time that this HTS subheading best matched LG's reported information as reflected in its June 10, 2016, SV database.

After a further examination of the description for both HTS subheadings at issue, we have used data from HTS subheading 8310.00.00.090 to value this input in the final determination because the description of this HTS subheading (which covers nameplates not used for products included in HTS heading 94.05 or in HTS heading 42.02 (*e.g.*, footwear)), unlike that of HTS subheading 8310.00.00.000 (which does include nameplates used for products included in HTS heading 42.02 (*e.g.*, footwear)), is more specific for purposes of valuing the input at issue.

[238] HTS subheading 8310.00.00.090 includes "Sign-plates, name-plates, address-plates and similar plates, numbers, letters, and other symbols, of base metal, excluding those of heading 94.05: Other."

[239] HTS subheading 8310.00.00.000 includes "Sign-plates, name-plates, address-plates and similar plates, numbers, letters, and other symbols, of base metal, excluding those of heading 94.05."

Comment 44: Carbon Film Resistor

Whirlpool's Case Brief

- The HTS subheading which the Department used to value LG's seven carbon film resistor part numbers in the *Preliminary Determination* is not the most specific HTS subheading for these parts based on an interpretation of the various HTS subheadings within the general HTS heading applicable to these parts.
- These parts are more accurately grouped in the eleven-digit HTS subheading 8533.10.10.000[240] (*i.e.*, a subheading for surface mounted carbon resistors) rather than 8533.10[241] because these parts are included in the former HTS subheading and the latter HTS subheading includes more than just these parts.
- The Department has a preference for eight-digit or higher subheadings.[242]

LG's Rebuttal Brief

- The Department should reject Whirlpool's argument to use data from a different HTS subheading than the HTS subheading the Department used in the *Preliminary Determination* to value these parts, as Whirlpool should have mentioned these parts in its pre-verification comments, thus enabling the Department to examine them more closely at verification.
- Because Whirlpool decided to wait until the filing of its case brief to raise this issue, the Department should find Whirlpool's argument with respect to the most appropriate HTS subheading assignment for these parts to be without merit.

Department's Position:

As an initial matter, we disagree with LG that Whirlpool's argument lacks merit because it did not raise it until its case brief. 19 CFR 351.309(c)(2) states that case briefs "must present all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results." Whirlpool's argument concerns which information on the record is the best available to value LG's carbon film resistors consistent with the Department's regulations. Whirlpool was not obligated to raise this argument in its pre-verification comments.

In the *Preliminary Determination*, the Department used data from HTS 8533.10 to value LG's carbon film resistors based on the Department's analysis that this HTS subheading best matched LG's reported information in its June 10, 2016, SV database. Because we did not select this input for further examination at verification and have no additional information on the record to consider in our analysis (such as whether the parts at issue are surfaced mounted or not), we have accepted LG's reported information for this input and have continued to rely on data from HTS 8533.10 to value this input in the final determination.

Regarding the petitioner's point that the Department has a preference for using eight-digit or higher subheadings, in this instance, it is not feasible to select a higher-digit subheading to value

[240] HTS subheading 8533.10.10.000 includes "Electrical resistors (including rheostats and potentiometers), other than heating resistors: Fixed carbon resistors, composition or film type: Surface mounted."

[241] HTS subheading 8533.10 includes "Electrical resistors (including rheostats and potentiometers), other than heating resistors: Fixed carbon resistors, composition or film type."

[242] *See* Whirlpool's Case Brief at 46 (citing to *Polyethylene Terephthalate Film, Sheet, and Strip from China*, 77 FR 14493 (March 12, 2012)).

this input in this case because there is no information on the record to indicate whether LG's carbon resistors are surface-mounted or not. The petitioner did not include this part in its pre-verification comments and we did not select this input for examination at verification; therefore, we did not examine the type of information (*e.g.*, schematic) necessary to determine whether an eleven-digit HTS subheading in this instance best reflects the input at issue.

Comment 45: Check Valve

Whirlpool's Case Brief

- The HTS subheading which the Department used to value LG's sole check valve part number in the *Preliminary Determination* is not the most specific HTS subheading for this part based on an interpretation of the various HTS subheadings within the general HTS heading for this part.
- This part is more accurately grouped in HTS subheading 8481.30.90.000[243] (*i.e.*, a subheading for check valves not otherwise specified) rather than 8481.80.21[244] because this part is included in the former HTS subheading and the latter HTS subheading includes other appliance valves.

LG's Rebuttal Brief

- The Department should reject Whirlpool's argument to use data from a different HTS subheading than the HTS subheading the Department used in the *Preliminary Determination* to value this part, as Whirlpool should have mentioned this part in its pre-verification comments, thus enabling the Department to examine it more closely at verification.
- Because Whirlpool decided to wait until the filing of its case brief to raise this issue, the Department should find Whirlpool's argument with respect to the most appropriate HTS subheading assignment for this part to be without merit.

Department's Position:

As an initial matter, we disagree with LG that Whirlpool's argument lacks merit because it did not raise it until its case brief. 19 CFR 351.309(c)(2) states that case briefs "must present all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results." Whirlpool's argument concerns which information on the record is the best available to value LG's check valve consistent with the Department's regulations. Whirlpool was not obligated to raise this argument in its pre-verification comments.

In the *Preliminary Determination*, the Department used data from HTS 8481.80.21 to value LG's check valve based on its analysis at the time that this HTS subheading best matched LG's reported information as reflected in its June 10, 2016, SV database.

---

[243] HTS subheading 8481.30.90.000 includes "Taps, cocks, valves and similar appliances for pipes, boiler shells, tanks, vats or the like, including pressure-reducing valves and thermostatically controlled valves: Check (nonreturn) valves: Other."

[244] HTS subheading 8481.80.21 includes "Taps, cocks, valves and similar appliances for pipes, boiler shells, tanks, vats or the like, including pressure-reducing valves and thermostatically controlled valves: Other appliances – valves for inner tubes: Having inlet or outlet internal diameters not exceeding 2.5 cm."

After a further examination of the description for both HTS subheadings at issue, we have used data from HTS subheading 8481.30.90.000 to value this input in the final determination because the description of this HTS subheading indicates that it includes check valves like those LG uses while HTS 8481.80.21 makes no such specific mention of them. Accordingly, we find HTS subheading 8481.30.90.000 to be the best available information to value LG's check valve.

Comment 46: Thinner

Whirlpool's Case Brief

- LG has not demonstrated that its thinners are organic, and therefore the HTS subheading which the Department used to value LG's thinners in the *Preliminary Determination* is not the most specific HTS subheading for this input.
- LG's thinners are more accurately grouped in HTS subheading 3814.00.00.090 (*i.e.*, an others thinner category) rather than the HTS subheading 3814.00.00.001 (*i.e.*, an organic thinner subheading) which the Department used in the *Preliminary Determination* to value this input.

LG's Rebuttal Brief

- Though Whirlpool claims that there is no evidence on the record that LG's thinner is organic, Whirlpool's proposed HTS subheading to value this input may in fact include "organic thinners."
- Whirlpool's proposed HTS subheading is no better than the HTS subheading the Department used to value this input in the *Preliminary Determination.*
- The Department should reject Whirlpool's argument to use data from a different HTS subheading than the HTS subheading the Department used in the *Preliminary Determination,* as Whirlpool should have mentioned this input in its pre-verification comments, thus enabling the Department to examine it more closely at verification.
- Because Whirlpool decided to wait until the filing of its case brief to raise this issue, the Department should find Whirlpool's argument with respect to the most appropriate HTS subheading assignment for this input to be without merit.

Department's Position:
As an initial matter, we disagree with LG that Whirlpool's argument lacks merit because it did not raise it until its case brief. 19 CFR 351.309(c)(2) states that case briefs "must present all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results." Whirlpool's argument concerns which information on the record is the best available to value LG's thinner consistent with the Department's regulations. Whirlpool was not obligated to raise this argument in its pre-verification comments.

In the *Preliminary Determination*, the Department used data from HTS 3814.00.00.001 to value LG's thinner based on the reported information for this input in LG's June 10, 2016 SV database. As we did not select this input for further examination at verification, and absent information that contradicts the reported information, we continue to rely on data from HTS 3814.00.00.001 to value this input in the final determination.

Comment 47: Owner's Manual Package

Whirlpool's Case Brief

- LG's owner manual packages are more accurately grouped in HTS subheading 4901.99.10.090[245] (*i.e.*, a printed book and leaflet subheading) rather than the HTS subheading 4911.10.90[246] (*i.e.*, a commercial catalogue and similar printed material subheading) which the Department used in the *Preliminary Determination* to value this input.

LG Rebuttal Brief

- The Department should continue to value this input with the HTS subheading selected in the *Preliminary Determination* because LG's owner manual packages are similar to commercial catalogues, which this HTS subheading includes.
- The HTS subheading which the petitioner proposes is for printed books, rather than commercial catalogues.
- The Department should reject Whirlpool's argument to use data from a different HTS subheading than the HTS subheading used in the *Preliminary Determination* to value this input, as Whirlpool should have mentioned this input in its pre-verification comments, thus enabling the Department to examine it more closely at verification.
- Because Whirlpool decided to wait until the filing of its case brief to raise this issue, the Department should find Whirlpool's argument with respect to the most appropriate HTS subheading assignment for this input to be without merit.

Department's Position:
As an initial matter, we disagree with LG that Whirlpool's argument lacks merit because it did not raise it until its case brief. 19 CFR 351.309(c)(2) states that case briefs "must present all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results." Whirlpool's argument concerns which information on the record is the best available to value LG's owner's manual package consistent with the Department's regulations. Whirlpool was not obligated to raise this argument in its pre-verification comments.

In the *Preliminary Determination*, the Department used data from HTS 4911.10.90 to value LG's owner manual packages based on its analysis that this HTS subheading best matched LG's reported information for this input as reflected in LG's June 10, 2016 SV database.

After further examination of the description for both HTS subheadings at issue, we have used data from HTS subheading 4901.99.10.090 to value owner manuals in the final determination because the description of this HTS subheading, unlike that of HTS subheading 4911.10.90, appears to include printed instruction books, which are more similar to manuals than then they are to catalogues. Therefore, consistent with our treatment of this same input part reported by Samsung, we have determined that HTS subheading 4901.99.10.090 includes owner manuals, and the data from this HTS subheading is the best available information to value them in the final determination.

---

[245] HTS subheading 4901.99.10.090 includes "Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets: Educational, technical, scientific, historical or cultural books: Other."
[246] HTS subheading 4911.10.90 includes "Other printed matter, including printed pictures and photographs: Trade advertising material, commercial catalogues and the like: Other."

Comment 48: Cold Rolled Steel (51mm x 1mm)

Whirlpool's Case Brief

- The HTS subheading which the Department used to value cold rolled steel in the *Preliminary Determination* is not the most specific HTS subheading for this input based on width and carbon content.
- This input is more accurately grouped in HTS subheading 7211.23.20.043[247] (*i.e.*, a subheading for cold-rolled steel with a width under 600 mm) rather than 7209.17.00[248] (*i.e.*, a subheading for cold-rolled steel with a width greater than 600 mm) because this input has a width less than 600 mm, and therefore, is included in the former rather than the latter HTS subheading.

LG's Rebuttal Brief

- The Department should continue to value this input using HTS subheading 7209.17.00 because the 7209 HTS general heading provides a breakout for steel thickness, while the 7211 HTS general heading does not.
- Thickness is an extremely important characteristic, even more so than width, with respect to steel and its valuation.
- The thickness of the steel at issue (1.0 mm) is included in the 7209 HTS general heading, rather than the 7211 HTS general heading.
- There is no description for HTS subheading 7211.23.20.043 on the record of this case.

Department's Position:

In the *Preliminary Determination*, the Department used data from HTS subheading 7209.17.00 to value the steel input at issue based on its analysis that this HTS subheading best matched LG's reported information as reflected in LG's June 10, 2016, SV database.

After a further examination of the description for both HTS subheadings and the steel input at issue, we find that although HTS subheading 7211.23.20.043 includes the width of the steel covered by this subheading, it does not specify the thickness or carbon content of the steel, as reflected in the mill certificate provided by LG in its questionnaire response.[249] On the other hand, although HTS subheading 7209.17.00 does not include the width of the steel input at issue, it does include the thickness of the steel part regardless of carbon content.

As HTS subheading 7209.17.00 includes two of the three characteristics of the steel input at issue, we have determined that it is the best information available on the record and have continued to use data from this HTS subheading to value this input in the final determination.

---

[247] HTS subheading 7211.23.20.043 includes "Flat-rolled products of iron or non-alloy steel, of a width of less than 600 mm, not clad, plated or coated: Not further worked than hot-rolled: Hoop and strip, of a width not exceeding 400 mm: Anneal, containing by weight 0.01% or more but not more than 0.15% of carbon and a thickness exceeding 1 mm but less than 3 mm."

[248] HTS subheading 7209.17.00 includes "Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, cold-rolled (cold-reduced), not clad, plated or coated: In coils, not further worked than cold-rolled (cold-reduced): Of a thickness of 0.5 mm or more but not exceeding 1 mm."

[249] *See* LG's mill certificate provided for this input in its June 6, 2016, Section D Supplemental Response at Exhibits SQ1-2 and SQ1-2-MTC at page 15.

This HTS subheading, unlike HTS subheading 7211.23.20.043, is more specific to this steel input.

Comment 49: Galvanized Steel Coil (Greater Than 600mm)

Whirlpool's Case Brief

- The Department should value LG's one part number described as galvanized steel coil greater than 600 mm with data from HTS subheading 7212.30.20.031[250] rather than with data from HTS subheading 7210.49.12[251] used in the *Preliminary Determination*, based on the mill certificate data LG provided for this input.
- This part is more accurately grouped in HTS subheading 7212.30.20.031,[252] based on its width and thickness.

LG's Rebuttal Brief

- The Department should reject Whirlpool's argument to use data from a different HTS subheading than the HTS subheading the Department used in the *Preliminary Determination* to value this part, as Whirlpool should have mentioned of this part in its pre-verification comments, thus enabling the Department to examine it more closely at verification.
- Because Whirlpool decided to wait until the filing of its case brief to raise this issue, the Department should find Whirlpool's argument with respect to the most appropriate HTS subheading assignment for this part to be without merit.

Department's Position:

As an initial matter, we disagree with LG that Whirlpool's argument lacks merit because it did not raise it until its case brief. 19 CFR 351.309(c)(2) states that case briefs "must present all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results." Whirlpool's argument concerns which information on the record is the best available to value LG's galvanized steel coil consistent with the Department's regulations. Whirlpool was not obligated to raise this argument in its pre-verification comments.

In the *Preliminary Determination*, the Department used data from HTS subheading 7210.49.12 to value the steel coil at issue based on its analysis at the time that this HTS subheading best matched LG's reported information as reflected in its June 10, 2016, SV database.

After a further examination of the description for both HTS subheadings and the steel coil input at issue, we have used data from HTS subheading 7212.30.20 (galvanized steel coil with a width less than 600 mm) to value this input part number in the final determination because the description of this HTS subheading, unlike that of HTS subheading 7210.49.12 (galvanized steel

[250] HTS subheading 7212.30.20.031 includes "Flat-rolled products of iron or non-alloy steel, of a width of less than 600 mm, clad, plated or coated: Hot dip galvanized of cold rolled, minimized/zero spangle, of a thickness exceeding 0.95 mm but not exceeding 1.2 mm."

[251] HTS subheading 7210.49.12 includes "Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, clad, plated or coated: Plated or coated with tin: Other, of a thickness not exceeding 1.2 mm."

[252] We note that data for HTS subheading 7212.30.20.031 is not on the record of this investigation, however data for HTS subheading 7212.30.20 is on the record.

coil with a width of 600 mm or greater) , is more specific to the input based on the width and thickness data LG provided in its questionnaire response.[253]

Comment 50: Steel Cold-Rolled Carbon Sheet Hot Dipped Galvanized (540mm x 0.4mm x 380.7 and 526mm x 0.4mm x 575)

Whirlpool's Case Brief

- The Department should value LG's two steel carbon sheet part numbers with data from HTS subheading 7212.30.20.033[254] rather than with data from HTS subheading 7212.30.99[255] used in the *Preliminary Determination* based on mill certificate data LG provided for these part numbers.
- These part numbers are more accurately grouped in HTS subheading 7212.30.20.033[256] based on their carbon content and thickness.

LG's Rebuttal Brief

- The Department should reject Whirlpool's argument to use data from a different HTS subheading than the HTS subheading the Department used in the *Preliminary Determination* to value these parts, as Whirlpool should have mentioned these parts in its pre-verification comments, thus enabling the Department to examine them more closely at verification.
- Because Whirlpool decided to wait until the filing of its case brief to raise this issue, the Department should find Whirlpool's argument with respect to the most appropriate HTS subheading assignment for these parts to be without merit.

Department's Position:

As an initial matter, we disagree with LG that Whirlpool's argument lacks merit because it did not raise it until its case brief. 19 CFR 351.309(c)(2) states that case briefs "must present all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results." Whirlpool's argument concerns which information on the record is the best available to value LG's hot dipped galvanized steel cold-rolled carbon sheet consistent with the Department's regulations. Whirlpool was not obligated to raise this argument in its pre-verification comments.

In the *Preliminary Determination*, the Department used data from HTS subheading 7212.30.99 to value the two steel carbon sheet part numbers at issue based on its analysis at the time that this HTS subheading best matched LG's reported information as reflected in LG's June 10, 2016, SV database.

---

[253] *See* LG's mill certificate provided for this input in its June 6, 2016, Section D Supplemental Response at Exhibits SQ1-2 and SQ1-2-MTC at page 5.

[254] HTS subheading 7212.30.20.033 includes "Flat-rolled products of iron or non-alloy steel, of a width of less than 600 mm, clad, plated or coated: Other, containing by weight less than 0.6 percent of carbon and of a thickness of 1.5 mm or less: Other: Hot dip galvanized of cold rolled, minimized/zero spangle, of a thickness of 0.18 mm or more but not exceeding 0.53 mm."

[255] HTS subheading 7212.30.99 includes "Flat-rolled products of iron or non-alloy steel, of a width of less than 600 mm, clad, plated or coated: Otherwise plated or coated in zinc: Other."

[256] We note that data for HTS subheading 7212.30.20.033 is not on the record of this investigation, however, data for HTS subheading 7212.30.20 is on the record.

After a further examination of the description for both HTS subheadings and the input part numbers at issue, we have used data from HTS subheading 7212.30.20 to value these input part numbers in the final determination because the description of this HTS subheading (galvanized steel with a carbon content of less than 0.6 percent, and thickness between 0.18 and 0.53 mm), unlike that of HTS subheading 7212.30.99 (galvanized steel with no carbon or thickness specifications), is more specific to the input based on the carbon content and thickness data LG provided in its questionnaire response.[257]

Comment 51: Steel Cold-Rolled Stainless Sheet Uncoated (645mm x 0.6mm x 645; 685mm x 0.6mm x 685; 720mm x 1mm x 720; and 700mm x 0.5mm x 700)

Whirlpool's Case Brief

- The Department should value LG's four steel stainless sheet part numbers with data from the eleven-digit HTS subheading 7219.34.00.054[258] rather than with data from the eight-digit HTS subheading 7219.34.00[259] used in the *Preliminary Determination*, based on mill certificate data LG provided for these part numbers.
- These part numbers are more accurately grouped in HTS subheading 7219.34.00.054 based on their carbon content, thickness, and surface finish.

LG's Rebuttal Brief

- The Department should reject Whirlpool's argument to use data from a different HTS subheading than the HTS subheading the Department used in the *Preliminary Determination* to value these parts, as Whirlpool should have mentioned these parts in its pre-verification comments, thus enabling the Department to examine them more closely at verification.
- Because Whirlpool decided to wait until filing its case brief to raise this issue, the Department should find Whirlpool's argument with respect to the most appropriate HTS subheading assignment for these parts to be without merit.

Department's Position:

As an initial matter, we disagree with LG that Whirlpool's argument lacks merit because it did not raise it until its case brief. 19 CFR 351.309(c)(2) states that case briefs "must present all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results." Whirlpool's argument concerns which information on the record is the best available to value LG's uncoated steel cold-rolled carbon sheet consistent with the Department's regulations. Whirlpool was not obligated to raise this argument in its pre-verification comments.

[257] *See* LG's mill certificate provided for this input in its June 6, 2016, Section D Supplemental Response at Exhibits SQ1-2 and SQ1-2-MTC at page 2.

[258] HTS subheading 7219.34.00.054 includes "Flat-rolled products of stainless steel, of a width of 600 mm or more: Not further worked than hot-rolled, in coils: Of a thickness of 0.5 mm or more but not exceeding 1mm: Ferritic series grade of a width less than 1500 mm, containing by weight more than 0.02% but not more than 0.1% of carbon and less than 1% of nickel and 2D or 2B surface."

[259] HTS subheading 7219.34.00 includes "Flat-rolled products of stainless steel, of a width of 600 mm or more: Not further worked than hot-rolled, in coils: Of a thickness of 0.5 mm or more but not exceeding 1mm."

In the *Preliminary Determination*, the Department used data from HTS subheading 7219.34.00 to value these four steel part numbers at issue based on its analysis at the time that this HTS subheading best matched LG's reported information as reflected in LG's June 10, 2016, SV database.

After a further examination of the description for both HTS subheadings and the input part numbers at issue, we have used data from HTS subheading 7219.34.00.054 to value these input part numbers in the final determination because the description of this HTS subheading (stainless steel, with a width of 600 mm or more, a thickness between 0.5 mm and 1mm, carbon content of not more than 0.1%, and a surface code of 2D or 2B) unlike that of HTS subheading 7219.34.00 (stainless steel with the same width and thickness specifications, but with no mention of carbon content or surface code) is more specific to the input, based on the data LG provided in its questionnaire response for these steel input part numbers.[260]

Comment 52: Stainless Steel Coil (365mm x 0.5mm)

Whirlpool's Case Brief

- The Department should value this stainless steel coil with data from HTS subheading 7220.20.10.054[261] rather than with data from HTS subheading 7220.20.90[262] used in the *Preliminary Determination*, based on mill certificate data LG provided for this input.
- This input is more accurately grouped in HTS subheading 7220.20.10.054 based on its chemical composition and width.

LG's Rebuttal Brief

- The Department should reject Whirlpool's argument to use data from a different HTS subheading than the HTS subheading the Department used in the *Preliminary Determination* to value this input, as Whirlpool should have mentioned this input in its pre-verification comments, thus enabling the Department to examine it more closely at verification.
- Because Whirlpool decided to wait until the filing of its case brief to raise this issue, the Department should find Whirlpool's argument with respect to the most appropriate HTS subheading assignment for this input to be without merit.

Department's Position:

As an initial matter, we disagree with LG that Whirlpool's argument lacks merit because it did not raise it until its case brief. 19 CFR 351.309(c)(2) states that case briefs "must present all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results." Whirlpool's argument concerns which information on the record is the best available to value LG's stainless steel coils consistent with the Department's regulations. Whirlpool was not obligated to raise this argument in its pre-verification comments.

---

[260] *See* LG's mill certificates provided for these inputs in its June 6, 2016, Section D Supplemental Response at Exhibits SQ1-2 and SQ1-2-MTC at pages 8 and 13.

[261] HTS subheading 7220.20.10.054 includes "Flat-rolled products of stainless steel, of a width of less than 600mm: Not further worked than hot-rolled: Ferritic series grade, containing by weight more than 0.02% but not more than 0.1% of carbon and less than 1% of nickel and 2D or 2B surface."

[262] HTS subheading 7220.20.90 includes "Flat-rolled products of stainless steel, of a width of less than 600mm: Not further worked than hot-rolled: Other."

In the *Preliminary Determination*, the Department used data from HTS subheading 7220.20.90 to value LG's one stainless steel coil part number at issue based on its analysis at the time that this HTS subheading best matched LG's reported information as reflected in LG's June 10, 2016, SV database.

After a further examination of the description for both HTS subheadings and the input part number at issue, we have used data from HTS subheading 7220.20.10.054 to value this input part number in the final determination because the description of this HTS subheading, unlike that of HTS subheading 7220.20.90, is more specific to the input based on the chemical composition and width data LG provided in its questionnaire response[263] for this input.

Comment 53: U.S. Indirect Selling Expense Ratio Expense Calculation

Whirlpool's Case Brief

- The Department should reject LGEUS's[264] two verification corrections to its U.S. indirect selling expense calculation because these corrections are methodological, rather than clerical, in nature.
- First, the Department should not permit LGEUS to revise its indirect selling expenses by offsetting them by an amount reimbursed by its parent company because those expenses, which the parent company incurred, are not otherwise included in LGEUS's margin calculation.
- Second, the Department should not permit LGEUS to remove an accrual amount for promotion and advertising expenses because it did not demonstrate that these accrual amounts would be reversed.
- The Department's practice is to include these types of expenses in the indirect selling expense calculation as they are recorded in the company's books and records.[265]

LG's Rebuttal Brief

- The Department should accept LGEUS's verification corrections to its indirect selling expense calculation.
- The expenses for which LGEUS's parent company reimbursed LGEUS are actually incurred by the parent company, but billed through LGEUS, so LGEUS allocates these global-event-related expenses back to its parent in the normal course of business.
- LGEUS' removal of accrual expenses from its indirect selling expense calculation is consistent with the manner in which it was required to report its rebates, *i.e.*, on an actual, rather than on an accrual, basis.
- If the Department decides to include accrual expenses in the calculation, then it should remove the actual expenses which LGEUS paid in the beginning of the POI which were accrued before the POI. This information, however, is not on the record.

---

[263] *See* LG's mill certificate provided for this input in its June 6, 2016, Section D Supplemental Response at Exhibits SQ1-2 and SQ1-2-MTC at page 8.
[264] LG Electronics USA, Inc.
[265] *See* Whirlpool's Case Brief at 57 (citing *Liberty Frozen Foods Private Ltd. v. United States*, 819 F. Supp. 2d 1346, 1348 (CIT 2012); and *Stainless Steel Sheet and Strip in Coils from Taiwan: Final Results of Antidumping Duty Administrative Review*, 73 FR 6932 (February 6, 2008)).

Department's Position

We agree with LG with respect to its treatment of accruals for promotion and advertising expenses. These items are end-of-period account closing adjustments, consistent with LG's normal accounting practices, as LG reported and we verified.[266] Accordingly, we find no basis to remove this adjustment from the indirect selling expense ratio calculation.

With respect to the reimbursement of expenses incurred by LGEUS for a trade show held in the United States by LGEUS' Korean parent company, we note that these expenses were incurred by, and on the account of, the affiliated seller in the United States (*i.e.*, LGEUS). In accordance with the statute, the Department is directed to deduct any such selling expenses not otherwise accounted for as commissions, direct selling expenses, or expenses paid on behalf of the purchaser.[267] That a portion of the expenses in question were reimbursed by the parent company is irrelevant to this statutory requirement. Accordingly, we recalculated the indirect selling expense ratio to include the amount of indirect selling expenses reimbursed by LGEUS' parent company.[268]

Comment 54: Commissions on Rebates

Whirlpool's Case Brief

- The Department should treat LGEUS' payment of commissions to an unrelated third party for operating certain rebate programs as a direct, rather than an indirect, selling expense based on Department practice.[269]
- Section 772(d)(1)-(3) of the Act is clear that the only way commissions paid to a third party can be treated as indirect selling expenses is if the Department finds that the expenses are not commissions or other direct selling expenses.

LG's Rebuttal Brief

- The Department should treat LGEUS' payment of commissions to a third party as indirect selling expenses because these expenses are administrative in nature, *i.e.*, they are not direct fees paid to an intermediary in exchange for negotiating a sale.
- The amount of these so-called "commissions," related to POI subject merchandise sales, is not on the record; therefore, the Department is unable to make this adjustment if it considers this expense item to be direct, rather than indirect, in nature.

---

[266] *See* LG CEP Verification Report at page 19, VE-1, and VE-36.
[267] *See* section 772(d)(1)(D) of the Act.
[268] *See* LG Final Calculation Memorandum.
[269] *See* Whirlpool's Case Brief at 59 (citing *Antifriction Bearings (Other Than Tapered Roller Bearings) from France, et. al.: Final Results of Antidumping Duty Administrative Review*, 60 FR 10900 (February 28, 1995) at Comment 23).

Department's Position:
We agree with LG. Our analysis of the information on the record supports LG's representation of these payments as fees to a third party for administering rebate programs,[270] rather than as commissions for selling the subject merchandise in the United States, as defined by section 772(d)(1)(A) of the Act. These fees are not tied to the making of particular sales. Instead, the payments to the third party are for the administrative expenses that the latter incurred in administering a rebate program. Accordingly, there is no basis to treat these expenses as direct selling expenses in the final determination.

Comment 55: Profit Excluded from Warranty Expenses

Whirlpool's Case Brief
- LGEUS' warranty expense ratio must include an element of profit paid to its affiliate (LGEAI[271]) because: (1) LGEAI charges LGEUS for goods and services (which includes an amount of profit); and (2) LGEUS excluded the profit margin from its warranty expense calculation, reasoning that the charges are between affiliated companies.

LG's Rebuttal Brief
- The Department should not add an "imputed" amount for profit into LGEUS' actual warranty expenses because (1) LGEAI is a wholly-owned subsidiary of LGEUS and transactions between these two entities are not at arms-length; and (2) any profit earned by LGEAI on its sale of warranty services to LGEUS is eliminated when consolidating their accounting records.
- If, however, the Department makes this adjustment, it should not adopt Whirlpool's calculation method, but rather, it should adjust warranty expenses by a ratio based on LGEAI's total profits and costs.

Department's Position:
LGEAI, LG's affiliate that provides warranty services for LG's LRWs, is a wholly-owned subsidiary of LGEUS and its financial statement is consolidated as part of the LGEUS financial statement. As LG states, and the Department verified, any profit earned by LGEAI is eliminated as part of the consolidation.[272] In turn, the warranty expenses reported to the Department are reported at cost. In situations such as this one where no arm's-length pricing information or other benchmark for determining a profit or market price exists, the Department relies on the cost of the service.[273] We found no discrepancies with LG's warranty expense methodology during

[270] *See* LG QRC at page 25 (which describes the rebate program) and LG QRC Exhibit C-18 (documents demonstrating how the rebate is paid, supporting the narrative description), as well as the LG CEP Verification Report at VE-36 (includes an invoice from the third party listing the fees incurred to administer the rebate program).
[271] LG Electronics Alabama, Inc.
[272] *See, e.g.* LG CEP Verification Report at page 3 and VE-4 (LGEUS 2015 audited consolidated financial statement at page 7).
[273] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Large Residential Washers From the Republic of Korea*, 77 FR 46391, 46400 (August 3, 2012) ("Regarding inland freight, warehousing, and warranty expenses, Samsung paid affiliated companies to perform these services in the home market. Because Samsung's affiliates did not provide the same service to unaffiliated parties, nor did Samsung use unaffiliated companies for these services, we were unable to test the arm's-length nature of the expenses paid by Samsung. Therefore, we based these expenses on the affiliates' costs."); unchanged in

verification.[274] Further, we note that LG's methodology for reporting warranty expenses incurred by a wholly-owned subsidiary is consistent with Samsung's warranty expense methodology where the warranty services are performed by a division of the U.S. affiliate.[275] Therefore, we find no basis to adjust LG's warranty expenses for any profit paid to LGEAI.

Comment 56: Corrections from Verification

Whirlpool's Case Brief

- The Department should implement the following corrections resulting from verification:
    - A yield loss ratio specified in the verification report should be applied to the reported factors for all material inputs;
    - The electricity usage rate specified in the verification report for the toller examined at verification should be corrected;
    - The average labor and electricity usage rates specified in the verification report for the top six tollers should be corrected;
    - LG's direct and indirect labor usage rates specified in the verification report should be corrected;
    - U.S. brokerage expenses should be corrected based on verification findings; and
    - U.S. warehousing expenses should be corrected to include receivables.

LG's Rebuttal Brief

- LG agrees with Whirlpool on the first four items listed above, and had no comment on the last two items.

Department's Position:
We agree with the petitioner. In our October 21, 2016, letter to LG, we requested that LG make the FOP-related corrections noted above to the FOP databases it submitted on October 27, 2016.[276] We have used this FOP listing in the final determination.

Regarding U.S. brokerage expenses, this correction was made pursuant to the Department's October 7, 2016, letter to LG, requesting that LG revise its U.S. sales database for verification corrections. LG submitted this revised U.S. sales database on October 14, 2016. We used this database in the final determination. Accordingly, no further correction for the U.S. brokerage expense is necessary.

Regarding U.S. warehousing expenses, we agree with the petitioner that the reported U.S. warehousing expenses should be revised to account for an amount for "receivables," as discussed in the LG CEP Verification Report.[277] Accordingly, we made an adjustment to the expense in our final determination.

Notice of Final Determination of Sales at Less Than Fair Value: Large Residential Washers From the Republic of Korea, 77 FR 75988 (December 26, 2012).

[274] *See* LG CEP Verification Report at page 18 and VE-33.

[275] *See* Samsung CEP Verification Report at page 20.

[276] *See* October 27, 2016, Letter from LG to the Department.

[277] *See* LG CEP Verification Report at page 14.

Comment 57: Programming Clerical Errors in the Preliminary Determination

Whirlpool's Case Brief

- For four part numbers,[278] the surrogate values reflected in the SV database (in Excel format) used in the *Preliminary Determination* were slightly different from the surrogate values for those same part numbers in the SV database (in SAS format) which the Department used to derive LG's preliminary margin.
- The Department calculated an amount for packing labor in the SAS margin program but inadvertently omitted packing labor from the NV cost buildup.
- The Department should correct these clerical errors in the final determination.

LG's Rebuttal Brief

- LG agrees with Whirlpool on this matter.

Department's Position:
We agree with the petitioner and have made the requested corrections in the final determination.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting all of the above changes and positions, and adjusting the margin calculation program accordingly. If accepted, we will publish the final determination and the final dumping margins in the Federal Register.

☒ ☐

AGREE DISAGREE

12/8/2016

X 

Signed by: PAUL PIQUADO

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

[278] The part numbers are 9BJ0790S001, RAA01219705, RAA31760903, and RAA31778302.