review. (2) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period. (3) If the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise. (4) If neither the manufacturer nor the exporter is a firm covered in this or any previous review, the cash deposit rate will be 8.87 percent, the ''all others'' rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

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

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

Dated: April 26, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–11122 Filed 5–3–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–580–812]

Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On September 11, 1995, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order on dynamic random access memory semiconductors (DRAMS) of one megabit or above from the Republic of Korea. The review covers two manufacturers/exporters of the subject merchandise to the United States for the period October 29, 1992 through April 30, 1994. These manufacturers/exporters are LG Semicon Co., Ltd. (LGS, formerly Goldstar Electron Co., Ltd.) and Hyundai Electronics Industries, Inc. (HEI/Hyundai).

As a result of comments we received, the antidumping margins have changed from those we presented in our preliminary results.

EFFECTIVE DATE: May 6, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas F. Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–3814.

SUPPLEMENTARY INFORMATION:

Background

On September 11, 1995, the Department published the preliminary results (60 FR 47149) of administrative review of the antidumping duty order on DRAMS of one megabit or above from the Republic of Korea. We received timely comments from the petitioner and both respondents. At the request of the petitioner, we held a hearing on October 26, 1995.

Scope of the Review

Imports covered by the review are shipments of DRAMS of one megabit and above from the Republic of Korea (Korea). For purposes of this review, DRAMS are all one megabit and above, whether assembled or unassembled. Assembled DRAMS include all package types. Unassembled DRAMS include processed wafers, uncut die and cut die. Processed wafers produced in Korea, but packaged, or assembled into memory modules in a third country, are included in the scope; wafers produced in a third country and assembled or packaged in Korea are not included in the scope of this review.

The scope of this review includes memory modules. A memory module is a collection of DRAMS, the sole function of which is memory. Modules include single in-line processing modules (SIPs), single in-line memory modules (SIMMs), or other collections of DRAMS, whether unmounted or mounted on a circuit board. Modules that contain other parts that are needed to support the function of memory are covered. Only those modules which contain additional items which alter the function of the module to something other than memory, such as video graphics adapter (VGA) boards and cards, are not included in the scope.

The scope of this review also includes video random access memory semiconductors (VRAMS), as well as any future packaging and assembling of DRAMS.

The scope of this review also includes removable memory modules placed on motherboards, with or without a central processing unit (CPU), unless the importer of motherboards certifies with the Customs Service that neither it, nor a party related to it or under contract to it, will remove the modules from the motherboards after importation. The scope of this review does not include DRAMS or memory modules that are reimported for repair or replacement.

The DRAMS subject to this review are classifiable under subheadings 8542.11.0001, 8542.11.0024, 8542.11.0026, and 8542.11.0034 of the Harmonized Tariff Schedule of the United States (HTSUS). Also included in the scope are those removable Korean DRAMS contained on or within products classifiable under subheadings 8471.91.0000 and 8473.30.4000 of the HTSUS. Although the HTSUS subheadings are provides for convenience and customs purposes, the written description of the scope of this review remains dispositive.

The period of review (POR) covers from October 29, 1992 through April 30, 1994 for all respondents.

Applicable Statute and Regulations

The Department has conducted this administrative review in accordance with section 751 of the Tariff Action 1930, as amended (the Tariff Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations refer to the provisions as they existed on December 31, 1994.

United States Price

We calculated U.S. price according to the methodology described in our preliminary results, except for the adjustment of value-added taxes (VAT), as described below.

In light of the Federal Circuit's decision in *Federal Mogul* v. *United States*, 63 F. 3d 1572 (Fed. Cir. 1995), the Department has changed its treatment of home market consumption taxes. Where merchandise exported to the United States is exempt from the consumption tax, the Department will add to the U.S. price the absolute amount of such taxes charged on the comparison sales in the home market. This is the same methodology that the Department adopted following the decision of the Federal Circuit in *Zenith*

v. *United States,* 988 F. 2d 1573, 1582 (1993), and which was suggested by that court in footnote 4 of its decision. The Court of International Trade (CIT) overturned this methodology in *Federal Mogul* v. *United States,* 834 F. Supp. 1391 (1993), and the Department acquiesced in the CIT's decision. The Department then followed the CIT's preferred methodology, which was to calculate the tax to be added to U.S. price by multiplying the adjusted U.S. price by the foreign market tax rate; the Department made adjustments to this amount so that the tax adjustment would not alter a ''zero'' pre-tax dumping assessment.

The foreign exporters in the *Federal Mogul* case, however, appealed that decision to the Federal Circuit, which reversed the CIT and held that the statute did not preclude Commerce from using the ''*Zenith* footnote 4'' methodology to calculate tax-neutral dumping assessments (*i.e.*, assessments that are unaffected by the existence or amount of home market consumption taxes). Moreover, the Federal Circuit recognized that certain international agreements of the United States, in particular the General Agreement on Tariffs and Trade (GATT) and the Tokyo Round Antidumping Code, required the calculation of tax-neutral dumping assessments. The Federal Circuit remanded the case to the CIT with instructions to direct Commerce to determine which tax methodology it will employ.

The Department has determined that the ''*Zenith* footnote 4'' methodology should be used. First, as the Department has explained in numerous administrative determinations and court filings over the past decade, and as the *Federal Circuit* has recognized, Article VI of the GATT and Article 2 of the Tokyo Round Antidumping Code required that dumping assessments be tax-neutral. This requirement continues under the new Agreement on Implementation of Article VI of the GATT. Secondly, the Uruguay Round Agreements Act (URAA) explicitly amended the antidumping law to remove consumption taxes from the home market price and to eliminate the addition of taxes to U.S. price, so that no consumption tax is included in the price in either market. The Statement of Administrative Action (p. 159) explicitly states that this change was intended to result in tax neutrality.

While the ''*Zenith* footnote 4'' methodology is slightly different from the URAA methodology, in that section 772(d)(1)(C) of the pre-URAA law required that the tax be added to U.S. price rather than subtracted from home market price, it does result in tax-neutral duty assessments. In sum, the Department has elected to treat consumption taxes in a manner consistent with its longstanding policy of tax-neutrality and with the GATT.

Foreign Market Value

With the exception noted above for VAT, we calculated FMV according to the methodology described in our preliminary results.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results of this administrative review. At the request of the petitioner, we held a public hearing on October 26, 1995. We received timely comments from the petitioner and both respondents.

General Comments

Comment 1: The petitioner argues that Hyundai and LGS erred in preparing their antidumping questionnaire responses by misallocating corporate indirect selling expenses. Specifically, the petitioner argues that Hyundai's U.S. subsidiary, Hyundai Electronics America, Inc. (HEA), and LGS each mistakenly allocated corporate U.S. indirect selling expenses among their various manufacturing divisions on bases other than relative sales value. The petitioner maintains that allocation on the basis of relative sales value is the standard allocation methodology for all indirect selling expenses. The petitioner argues that HEA and LGS's allocation method is incorrect because both respondents under-allocated the proper amount of administrative expenses to their respective semiconductor divisions.

Hyundai argues that the Department's questionnaire did not instruct Hyundai to allocate indirect selling expenses on the basis of sales value, and that the Department routinely accepts allocation bases other than relative sales value, provided that the methodology is reasonable. Hyundai also notes that the Department verified HEA's allocation methodology during its U.S. sales verification of HEA.

LGS argues that the current allocation methodology for indirect selling expenses has been twice verified and accepted by the Department. Moreover, LGS argues that it has been the Department's policy to accept reasonable, verified allocation methodologies of indirect selling expenses.

DOC Position: We agree with Hyundai and LGS. It is not our policy to require allocation of indirect selling expenses based upon relative sales value in every instance (*see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al., Final Results of Antidumping Duty Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders,* 60 FR 10900 (February 28, 1995) (*AFBs 1995*). More specifically, in the final results of the less-than-fair-value investigation we clearly noted that we would accept an allocation basis other than relative sales value provided the methodology was reasonable. *See Dynamic Random Access Memory Semiconductors of One Megabit and Above, from the Republic of Korea,* 58 FR 15467, 15477 (March 23, 1993) (*DRAMS LTFV Final 1993*).

Moreover, we note that Hyundai and LGS used three separate bases of allocation for different selling expenses, one of which was relative sales value. In addition, Hyundai used manpower hours in allocating labor expenses and the number of invoices in allocating accounting department expenses. LGS used a similar methodology to allocate its indirect selling expenses that were not identified by subdivision. We believe that it is more appropriate to allocate human resource and accounting department expenses on the basis of manpower and number of invoices than on the basis of sales value because human resource expense is a function of the number of employees, and accounting department expense is a function of the volume of invoices prepared. Thus, we believe that these allocation bases are reasonable and have continued to accept them for purposes of these final results of review. Furthermore, we verified HEA and LGS's allocation bases for its indirect selling expenses during our U.S. sales verifications and found no discrepancies or inaccuracies in Hyundai or LGS's allocation methodology. *See* Verification Report of Home Market Sales Questionnaire Response of Hyundai Electronic Industries, Inc., April 27, 1995 (HEI Home Market Sales Verification Report) at page pp. 12–13, and Verification Report of Home Market Sales Questionnaire Response of LG Semicon, Ltd., April 13, 1995 (LGS Home Market Verification Report) at page 13.

Comment 2: LGS maintains that the Department should not include research and development expenses (R&D) of non-DRAM products in the DRAM R&D. LGS alleges that the product-specific R&D expenses, which were specifically identified in its accounting system, were fully quantified and verified by Department officials. LGS argues that the Department's decision to include non-DRAM R&D is inconsistent with the decision of the U.S. Court of International Trade regarding the LTFV investigation which remanded the final determination back to the Department, and, in part, ordered the Department to calculate R&D expense on a product-specific basis. *See Micron Technology, Inc.* v. *Unites States*, 893 F. Supp. 21 (CIT 1995) (*Micron Technology*).

The petitioner argues that a product specific accounting categorization of projects does not prove that R&D conducted for one type of semiconductor cannot benefit the development of another type of semiconductor (i.e., cross-fertilization). Therefore, the petitioner maintains that the Department's treatment of R&D expenses in the preliminary determination was appropriate.

DOC Position: We agree with the petitioner. At verification, we confirmed that each R&D project is accounted for separately in each of the respondent's respective books and records. Separate accounting, however, does not necessarily mean that cross fertilization of scientific ideas does not occur. Moreover, the CIT specifically stated in *Micron Technology* that the Department did not ''direct the court to any record evidence of R&D cross-fertilization in the semiconductor industry.'' *Micron Technology*, 893 F. Supp., at 27. In this review, the Department has provided such information. *See* Memorandum from Karen Park to Holly Kuga regarding Cross Fertilization of R&D for DRAMS, August 14, 1995 (cross fertilization memo). The cross fertilization memo includes pages from verification exhibits, a memorandum from a non-partisan expert from the semiconductor industry, as well as information from certain articles widely read by experts in the DRAM R&D field demonstrating the existence of cross-fertilization of R&D in the DRAM industry.

Comment 3: The petitioner argues that the fees paid by HEI and LGS for the services of their respective trading companies were understated in their questionnaire response (QR). The petitioner maintains that the fees reported by HEI did not reflect the true cost of the services provided by HEI's trading company. The petitioner urges the Department to quantify the real cost of the services provided by HEI's trading company by resorting to best information available (BIA), using the petitioner's estimate of the trading company's costs as derived from the public information of another respondent in this review.

Hyundai argues that the Department should reject the petitioner's assertion because the trading company in question is unrelated to HEI and the Department verified the fee reported. Hyundai states that the fees reported fully reflect the services provided by the trading company to HEI.

The petitioner alleges that despite the number of services provided by LGS' trading company, LGS acknowledged no costs associated with these services. The petitioner argues that a circumstance of sale adjustment should be made to U.S. price to capture the selling expenses associated with this trading company.

LGS argues that the Department has verified that LGS does not incur any additional expenses through the use of the trading company's name as the exporter of record for some of LGS' exports of subject merchandise to the United States. LGS maintains that its trading company did not provide any service for LGS in its sales transactions.

DOC Position: We agree with the respondents. We agree that the trading companies in question are unrelated to HEI and LGS. We verified this during our home market sales verification in Korea. See HEI Cost-of-Production/Constructed Value (COP/CV) Verification Report at page 5, LGS COP/CV Verification Report at page 6. Furthermore, we examined the fees paid to HEI's unrelated trading company by HEI and found no discrepancies in the fee amounts reported. (HEI Home Market Sales Verification Report, p. 16). Despite the petitioner's assertion that these fees do not reflect the actual cost of services provided to HEI, there is no evidence on the record to suggest that this is the case.

We also examined LGS's relationship with its trading company. See LGS Home Market Sales Verification Report, pp. 18–19. We verified that LGS did not incur any costs for the use of its trading company's name. Moreover, we verified that this trading company did not provide any services related to sales of subject merchandise to LGS.

Comment 4: The petitioner urges the Department to impute costs for loan fees borne by certain companies. The petitioner maintains that the fees reported by Hyundai and LGS do not include the risk and cost by certain firms. The petitioner urges the Department to increase HEI and LGS's financing costs by a percentage derived from HEI and LGS's financial statements.

Hyundai counters that the petitioner's argument is without merit because the Department thoroughly verified all financing fees incurred by HEI during the POR. Hyundai further explains that the petitioner ignored the evidence on the record that because Hyundai's fixed assets are used as loan collateral, that the full risk and cost of the loans were accurately reported.

LGS argues that no payment was made related to the loan guarantees. Moreover, LGS notes that the Korean law does not require the guarantor to charge for related party guarantees unless there is a default.

DOC Position: We agree with Hyundai and LGS. During our COP verification of HEI and LGS, we examined HEI's and LGS's financial expenses and specifically addressed the issue of loan fees. *See* Report on the Verification of the Cost of Production Questionnaire Response of Hyundai Electronic Industries, Inc., April 17, 1995 (HEI COP/CV Verification Report) at pp. 26–27 and Verification of the Cost of Production Questionnaire Response of Goldstar Electron Company, Ltd. (GSEN), July 26, 1996, (LGS COP/CV Verification Report), at page 9. Because our COP verification indicates that HEI and LGS accurately reported all loan fees, there is no reason to impute a cost for such expenses.

Company-Specific Comments

LGS

Comment 5: The petitioner alleges that certain royalty agreements require a different percentage payment of royalty expenses depending on whether the covered merchandise is sold in the U.S. or elsewhere. Therefore, the royalty agreements constitute a difference in circumstance of sale, directly related to sales. LGS claims that the petitioner's allegation is factually incorrect. The royalty agreements in question require the same payment for merchandise sold in the U.S. or elsewhere. Moreover, LGS claims that it is the Department's standard practice to treat royalties as a cost of manufacturing.

DOC Position: The royalty agreements in question do not require a different percentage payment depending on whether the covered merchandise is sold in the U.S. or elsewhere. *See* LGS's October 19, 1994 response to the Department's supplemental sales questionnaire. The petitioner is referencing information that was submitted in the original questionnaire response which was later revised by the respondent in its supplemental questionnaire response to the Department.

Moreover, it has been the Department's longstanding practice to treat royalty payments for production technology as cost of manufacturing, even in circumstances where the royalty payments were based on sales revenue. *See Extruded Rubber Thread from*

Malaysia, 57 FR 38465 (August 25, 1992) and *Certain Hot-Rolled Carbon Steel Flat Products, etc. from Canada*, 58 FR 37099, 37118 (July 9, 1993).

Comment 6: LGS asserts that the Department should accept amortization of purchased R&D amounts over the relevant contract period. LGS argues that the Department's decision in the preliminary determination to expense purchased R&D in the year incurred is inconsistent with the CIT decision in the less-than-fair-value investigation. *See Micron Technology.* LGS asserts that the *Micron* decision requires the Department to amortize R&D expenses over the life cycle of the product.

The petitioner argues that LGS's own financial statements expensed the purchased R&D in the year incurred. Therefore, all payments related to the purchased R&D should be acknowledged in the year in which they were incurred, since this is how the expenses were recorded in the company's books and records.

DOC Position: We agree with the petitioner that LGS's purchased R&D expenses should be acknowledged in the year in which they were incurred, since this is how the expenses were recorded in the company's books and records. *See* LGS COP/CV Verification Report of July 26, 1995 at page 8. Moreover, the *Micron* decision requires the Department to allow the allocation of R&D expenses over time, when the allocation is made in accordance with the generally accepted accounting practices in effect in the home country, and when Commerce is satisfied that those principles reasonably reflect all of the costs associated with the production of the subject merchandise. In this case, although the Korean GAAP may allow LGS to amortize its purchased R&D over a given period, LGS did not do so. Rather, LGS expensed purchased R&D for its financial statements, and amortized it over a longer period for the antidumping response. In these calculations, the Department relied on LGS's accounting system to determine the total R&D figure applicable to the analysis: it amortized any R&D expenses that LGS amortized in its own books and records and it expensed any R&D expenses that LGS expensed. As a result, the Department is not taking a position contrary to the CIT decision, nor is it rejecting the Korean GAAP which allows parties the option of expensing or allocating such costs. Due to the proprietary nature of LGS's internal accounting system, see the LGS COP/CV Verification Report for further information.

Comment 7: LGS noted the following clerical errors in the Department's computer program: (1) LGS notes that the Department did not apply the correct exchange rate to the home market letter of credit sales; (2) LGS notes clerical errors for duty drawback adjustment; (3) LGS argues that the computer program does not use the actual home market sales quantity in the cost test; (4) LGS notes that the Department's computer program inadvertently disregards the submitted data in the model match; (5) LGS argues that the Department's computer program does not correctly read the module cost of production data; and (6) LGS noted that the Department's computer program reads the wrong variable in the submitted information which affects the total cost of production calculation.

DOC Position: We agree with LGS on each of these points and have revised our calculations accordingly.

Hyundai

Comment 8: Hyundai maintains that the Department made a clerical error in its final calculations by incorrectly comparing all of its further-manufactured sales of memory modules to the CV of the imported merchandise. Hyundai argues that it is the Department's practice to resort to CV only in instances where there are insufficient home market sales above COP or insufficient home market sales during a contemporaneous period to be used with comparison to U.S. sales. Hyundai urges the Department to revise its final results calculations to include price-to-price comparisons for sales of further-manufactured products and suggests two possible methodologies as discussed below.

The petitioner maintains that the Department was correct in comparing respondents' further-manufactured U.S. sales to CV. The petitioner argues that the complexity of determining the basis on which to allocate the U.S. module price net of further-manufactured costs to the different types of DRAMS in the modules made CV a reasonable choice of comparison methodology. The petitioner urges the Department to adhere to its comparison methodology for further-manufactured U.S. sales as contained in its preliminary results of review.

DOC Position: We agree that it is generally the Department's policy to calculate the foreign market value for the U.S. sales of further-processed merchandise on the basis of products in the condition as imported, not as in the condition sold.

The prices for the further-manufactured modules were an inadequate basis for comparison because there are no comparable home market sales for U.S. sales of memory modules with specific collections of different types of DRAMS assembled together in particular configurations for specific applications. The configuration and application of mixed memory modules are critical factors in determining the foreign market value (FMV) of these modules. Therefore, we resorted to CV in accordance with section 1677b(a)(2) of the Tariff Act. We calculated the FMV for the modules sold in the United States using the Department's traditional methodology. To obtain the FMV, we have summed the cost of production for each DRAM included on each type of module to obtain the cost of all the imported components included on the module. We then developed the FMV by applying the appropriate selling, general and administrative expenses, and home market profit to arrive at the CV of the imported components of the module. We then compared the CV of the imported parts to the USP of the module sold in the United States, less appropriate amounts for selling expenses, freight, further manufacturing and profit. We believe that this is the most reasonable comparison methodology for these types of sales given the circumstances mentioned above. We disagree that in this instance either proposed method would lead to an accurate determination of FMV because both would require adjustments to the USP for the purposes of matching the FMV of the product sold in the home market.

In respondent's first proposed method, the Department would derive an FMV by summing the FMVs of DRAMS sold in Korea in the same number and combination as they appear on the modules sold in the United States. However, we note that this new ''bundled FMV'' would represent an FMV for a product that is not sold in the home market, and as such, represents the cost of a hybrid and a hypothetical product. Furthermore, there is no indication that the resultant ''bundled FMV'' would be comparable to the price of the product sold in the United States.

In respondent's second proposed method, the Department would strip the United States price (USP) of the modules sold in the United States down to the price of each of its component parts. Then the Department would make adjustments for the total number of the individual DRAMS sold in the United States, and compare the results with the FMVs otherwise developed for home market sales. We rejected this methodology because it would require adjustments to the USP for matching purposes and would not guarantee an accurate comparison.

Comment 9: The petitioner maintains that Hyundai failed to provide the Department with the necessary sales information in its August 29, 1995, questionnaire response on sales of DRAMS contained in personal computers and computer workstations sold by HEA's ISD and Axil divisions. The petitioner urges the Department to reject Hyundai's entire questionnaire response for failure to report complete information on sales of subject merchandise during the POR and apply total BIA. Alternately, if the Department decides not to apply total BIA to Hyundai's entire questionnaire response, the petitioner urges the Department to use BIA in calculating the U.S. price of the value-added products in accordance with the petitioner's methodology contained in the petitioner's October 11, 1995 case brief.

Hyundai argues that it reported complete sales information on computers and workstations which were sold with the memory modules separately invoiced (option sales) and all reasonably available information on sales of computers and workstations which were sold without separately invoiced memory modules (embedded sales). Hyundai maintains that it would have been unreasonable to require complete sales information on embedded sales by ISD and Axil due to the extreme complexity of the value-added calculations. According to Hyundai, this type of calculation would have required an additional complete COP calculation and verification for all input products in the computers and workstations (e.g., computer monitors). Hyundai argues, that because embedded sales by Axil and ISD constituted an extremely small portion of HEA's U.S. sales of DRAMS, it would have been unreasonable to require full sales information on the embedded sales of subject merchandise.

Hyundai further asserts that total BIA is unwarranted, as Hyundai cooperated fully with the Department during the course of the first administrative review including the sales and COP verifications. Hyundai urges the Department to calculate the dumping margins on embedded sales by applying one of the following three margins to these sales: (1) the weighted-average margin found for the remainder of HEA's sales, (2) the margin calculated for Axil and ISD's option sales, or (3) the weighted-average margin from the original LTFV investigation.

DOC Position: We agree with the petitioner that Hyundai should have provided complete information on embedded sales of DRAMS by HEA's two computer divisions during the POR. There is neither a statutory nor a regulatory basis for excluding any U.S. sales of subject merchandise from review regardless of the complexity of the required calculations. *See AFBs 1995.* The statute requires the Department to analyze all U.S. sales within the POR. *See* section (a)(2)(A) (1994) of the Tariff Act.

However, we disagree that total BIA is warranted in this case. In cases where the respondent has substantially cooperated with the Department, as Hyundai has in this case, we do not typically apply total BIA, but rather apply partial BIA to the particular deficiencies in a respondent's questionnaire response. *See Industrial Nitrocellulose from the United Kingdo DOC Position: m, Final Results of Antidumping Duty Administrative Review,* 59 FR 66902, 66903 (December 28, 1994), and *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof, from France, et al., Final Results of Antidumping Duty Administrative Reviews and Revocation in Part,* 58 FR 39729, 39739–40 (July 26, 1993).

In deciding what to use as BIA, the Department's regulations provide that the Department may take into account whether a party refuses to provide requested information (19 CFR 353.37(b)). Thus, the Department determines, on a case-by-case basis, what constitutes BIA. For the purposes of these final results, we applied the following two-tier BIA analysis where we were unable to use a company's response for purposes of determining a dumping margin (*see Final Results of Antidumping Duty Administrative review of Antifriction Bearings and Parts Thereof from France, et al.,* 58 FR 39739, July 26, 1993):

1. When a company refuses to cooperate with the Department or otherwise significantly impedes these proceedings, we used as BIA the higher of (1) the highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the less than fair value investigation (LTFV) or prior administrative reviews; or (2) the highest rate found in this review for any firm for the same class or kind of merchandise in the same country of origin.

2. When a company substantially cooperates with our requests for information and, substantially cooperates in verification, but fails to provide the information requested in a timely manner or in the form required or was unable to substantiate it, we used as BIA the higher of (1) the highest rate ever applicable to the firm for the same class or kind of merchandise from either the LTFV investigation or a prior administrative review or if the firm has never before been investigated or reviewed, the all others rate from the LTFV investigation; or (2) the highest calculated rate in this review for the class or kind of merchandise for any firm from the same country of origin.

Hyundai, although it failed to report full cost data for its sales of embedded DRAMS in the United States, cooperated substantially with our requests for information and our sales and cost verifications. Accordingly, we applied the second-tier BIA rate of 11.16 percent to HEA's sales of embedded DRAMS. This rate represents the highest rate ever applicable to Hyundai.

We found petitioner's methodology in calculating partial BIA to be inappropriate because it recalculated prices for memory modules whose actual prices were obtained from the separate invoices prepared for these products. *See Mechanical Transfer Presses from Japan,* 55 FR 335, 337 (January 4, 1990).

Comment 10: The petitioner maintains that, based upon information contained in certain U.S. sales verification exhibits, there are large unaccounted for quantities of DRAMS transferred from HEA to its computer divisions ISD and Axil. The petitioner maintains that there is no correlation between the total quantity of DRAMS transferred to ISD and Axil during the POR and the total quantity of DRAMS sold by these two divisions during the POR. The petitioner urges the Department to account for the alleged ''loose'' DRAMS by assigning a USP of zero to all DRAMS imported by HEA during the POR and including them in the dumping analysis.

Hyundai maintains that the petitioner used incorrect numbers in making the above assertion and that there is not necessarily a correlation between the quantity of DRAMS transferred to ISD and Axil and the quantity of DRAMS sold by these two divisions during the POR. Hyundai argues that the petitioner failed to consider that a significant percentage of ISD and Axil sales were exported and that the Department fully verified total quantity and value of DRAMS sold in the United States.

DOC Position: We agree with Hyundai. We believe that the petitioner's assertion that a correlation must exist between the total quantity of DRAMS imported and sold during the POR is unfounded. The petitioner ignores the number of DRAMS and memory modules exported to third countries and, in their October 11, 1995 Case Brief, base part of their argument on an assumption that computer assemblers can only use DRAMS mounted on SIMMs boards. There is no evidence on the record of this proceeding to support such an assertion. In addition, we thoroughly verified total quantity and value of all U.S. sales of subject merchandise during our U.S. sales verification of HEA, including sales by ISD and Axil, and found no discrepancies. *See* Verification of the U.S. Sales Questionnaire Response of Hyundai Electronics America, Inc. In the First Antidumping Administrative Review of Dynamic Random Access Memory Semiconductors from Korea, December 12–15, 1994. HEA U.S. Sales Verification Report, pp. 4–10.

Comment 11: The petitioner maintains that Hyundai misclassified its reported advertising expenses in the home and U.S. markets. As evidence for this assertion, the petitioner points out that Hyundai classified a trade journal ad in the home market for future products under development but not commercially available as direct but classified a magazine ad for an existent product in the United States as indirect. The petitioner claims that it is inconsistent to classify an existent product as indirect while classifying a future product as direct. The petitioner urges the Department to reclassify all of Hyundai's U.S. advertising expenses as direct expenses and all of Hyundai's home market advertising expenses as indirect expenses.

Hyundai argues that its advertising classification is correct and that the petitioner ignores the type of customer to which the advertisement is targeted and the type of publication in which it is published. Hyundai maintains that the advertisements for future generation products were printed in a publication directed at end-users of Hyundai's DRAMS and is properly classified as a direct expense. Hyundai also argues that advertising expenses for future generation products are not inherently indirect as the scope of the review covers future generation products. Finally, Hyundai maintains that the petitioner ignored the fact that the majority of Hyundai's home market advertising expenses consisted of television advertisements, which are clearly direct expenses since they are aimed at the end-user.

DOC Position We agree with Hyundai. Hyundai's classification of its home market and U.S. advertising expenses is consistent with our policy. As stated on page V–13 of our instructions in our antidumping questionnaire, the classification of an advertising expense as direct or indirect depends upon to whom the advertisement is directed. It is our policy to classify advertising expenses directed to a respondent's end-user as direct while advertising directed toward the respondent's intermediary's customers as indirect. *See Antifriction (Other Than Tapered Roller Bearings) Bearings from the France, et. Al.; Final Results of Antidumping Duty Administrative Reviews; Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders,* 60 FR 10909 (February 28, 1995) and *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Republic of Germany, et al., Final Results of Antidumping Duty Administrative Review,* 54 FR 18992, 19507 (May 3, 1989). For the one sample U.S. advertisement mentioned by the petitioner, it is clear from our U.S. sales verification that this advertisement was directed to original equipment manufacturers (OEMs), not the distributors' customers. Thus the U.S. magazine ad was properly classified as an indirect expense. *See* HEA U.S. Sales Verification Report. Regarding the one home market advertisement concerning a product under development, we agree that certain costs for these products are properly included in the scope of this review. *See DRAMS LTFV Final 1993.* Finally, we do not believe that two advertisements constitute sufficient evidence for questioning respondent's advertising expenses, especially in light of the thorough home market and U.S. sales verifications conducted by the Department. *See Pure and Alloy Magnesium from Norway,* 57 FR 30942 (July 13, 1992).

Comment 12: The petitioner argues that the Department should revise Hyundai's reported U.S. inventory carrying costs for further-manufactured products by including the time during which the further-manufactured products are undergoing certain processing to the time the product was in inventory.

Hyundai maintains that its inventory carrying cost methodology is in accordance with previous Departmental precedents, including the final results of the original investigation. Hyundai argues that the Department should only make an inventory carrying cost adjustment to U.S. price for finished, not unfinished merchandise held in inventory.

DOC Position: We agree with Hyundai that an inventory carrying cost adjustment to U.S. price should only be made for finished goods in inventory and should not include unfinished goods, because unfinished goods represent production expenses rather than U.S. selling expenses. *See DRAMS LTFV Final 1993* at 15476 (Comment 32) and *Roller Chain, Other Than Bicycle, from Japan, Final Results of Antidumping Administrative Review,* 58 FR 30769 (May 27, 1993).

Comment 13: The petitioner maintains that Hyundai's purchase of construction services from a related company may not be at arms-length. As evidence for this assertion, the petitioner cites certain COP verification exhibits which the petitioner purports demonstrate that the related construction firm earned a lower profit on sales to HEI than on sales to other companies. The petitioner maintains that these exhibits also show that sales of construction services to HEI by the related party were made at prices below COP. The petitioner urges the Department to presume that all construction services were provided to HEI at prices below COP and calculate a BIA rate on these services by increasing the acquisition and depreciation costs claimed by HEI to reflect market-based values.

Hyundai contends that the record of this proceeding does not support the petitioner's assertion that certain construction services purchased by HEI from a related party were not at arms-length prices. Hyundai argues that the petitioner misread the related party's financial statements contained in the COP verification exhibits and that the services were provided at prices comparable to those charged other companies.

DOC Position: We agree with Hyundai. During our home market sales and COP verifications of Hyundai in Korea, we examined the issue of related parties to determine whether transactions between these parties and HEI were at arms-length. We specifically examined the transactions between HEI and a related party which provided construction services during the POR. We determined that, based upon prices charged to other companies for construction services, the services purchased by HEI were at arms-length. *See* page 5 and Exhibit 33 of the Report on the Verification of the Cost of Production Questionnaire Response of Hyundai Electronic Industries, Inc., April 17, 1995 (HEI COP/CV Verification Report).

Comment 14: The petitioner maintains that the Department made a clerical error in its assignation of BIA to certain sales due to an incorrect decimal point in the BIA rate of 11.16 percent. The petitioner also maintains that the Department made a clerical error in the final calculations by failing to test all of HEI's reported profit figures to check that the larger of the actual profit amount or the statutory eight percent is used in the calculation of CV.

DOC Position: We agree with the petitioner and have revised our final calculations accordingly.

Comment 15: Hyundai maintains that three clerical errors are contained in the Department's model matching section of the preliminary calculations. Hyundai argues that these errors are as follows: (1) the calculations did not identify similar products where there was not an identical home market match for a U.S. sale, (2) the model matching calculations fail to include the 90/60 day rule for identifying contemporaneous matches, and (3) the calculations' matching hierarchy mistakenly ranks the month of sale above the level of trade.

DOC Position: We agree with Hyundai and have corrected the model matching of our calculations accordingly for the final results of review.

Comment 16: Hyundai maintains that the Department's preliminary calculations mistakenly double count certain U.S. sales due to a clerical error.

DOC Position: We agree and have revised our final calculations accordingly.

Comment 17: Hyundai maintains that the Department's preliminary calculations contained a clerical error in its calculation of Hyundai's ESP offset cap. Hyundai maintains that the preliminary calculations failed to include U.S. commissions in the ESP offset cap.

DOC Position: We agree and have revised the ESP offset cap portion of our final calculations to include U.S. commissions.

Comment 18: Hyundai and the petitioner maintain that the Department's preliminary calculations contained a clerical error in its calculation of profit for CV. Hyundai argues that the Department failed to recompute Hyundai's profit to account for the revisions the Department made to Hyundai's reported COP data for the preliminary results of review. The petitioner argues that the preliminary calculations automatically applied the statutory minimum profit percentage of eight percent for all sales of DRAMS without first testing to determine whether the actual profit was less then eight percent.

DOC Position: We agree and have recomputed Hyundai's profit for CV in our final calculations to reflect the increase in Hyundai's COP. We also revised the preliminary calculations to compare Hyundai's actual profit to the statutory minimum of eight percent in calculating CV for the non-further manufactured sales where this did not occur. For our final calculations, we used the statutory minimum in cases where Hyundai's actual profit was below the statutory minimum.

Comment 19: Hyundai maintains that the Department's preliminary calculations contained a clerical error in the calculation of U.S. price. Hyundai argues that the Department failed to add duty drawback to USP in its net price calculations.

DOC Position: We agree and have revised our final results calculations accordingly.

Comment 20: Hyundai maintains that the Department's preliminary results calculations contained three clerical errors in its calculation of FMV. Hyundai maintains that these clerical errors were as follows: (1) the calculations failed to convert home market selling expenses incurred in U.S. dollars into Korean won, (2) the Department mistakenly added U.S. repacking expense to HEI's reported home market price, and (3) the Department failed to deduct indirect selling expenses form FMV for further-manufactured sales.

DOC Position: We agree and have revised our final results calculations accordingly.

Final Results of Review

Upon review of the comments submitted, the Department has determined that the following margins exist for the companies for the period October 29, 1992 through April 30, 1994:

Manufacturer/exporter	Percent margin
LG Semicon Co., Ltd	0.00
Hyundai Electronic Industries, Inc	0.06

The Customs Service shall assess antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions concerning each respondent directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed firms will be zero percent; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or in the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 3.85%, the all others rate established in the LTFV investigation. Samsung Electronics Co., Ltd. (Samsung), formerly a respondent in this administrative review, was excluded from the antidumping duty order on DRAMS from Korea on February 8, 1996. *See Final Court Decision and Partial Amended Final Determination: Dynamic Random Access Memory Semiconductors of One Megabit and Above From the Republic of Korea,* 61 FR 4765 (February 8, 1996).

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

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

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

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

Date: April 26, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

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