

includes complete and incomplete direct-view or projection-type cathode-ray tube color television receivers, with a video display diagonal exceeding 52 centimeters, whether or not combined with video recording or reproducing apparatus, which are capable of receiving a broadcast television signal and producing a video image. Specifically excluded from this investigation are computer monitors or other video display devices that are not capable of receiving a broadcast television signal.

The color television receivers subject to this investigation are currently classifiable under subheadings 8528.12.2800, 8528.12.3250, 8528.12.3290, 8528.12.4000, 8528.12.5600, 8528.12.3600, 8528.12.4400, 8528.12.4800, and 8528.12.5200 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the merchandise under investigation is dispositive.

Scope Comments

In accordance with the preamble to our regulations (*see Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice* (*see* 68 FR at 32013). Interested parties submitted such comments by June 13, 2003.

Pursuant to the Department's solicitation of scope comments in the *Initiation Notice*, Algert/Panasonic requested that Panasonic multi-system, dual/auto voltage CTVs be excluded from the scope of this investigation because: (1) These CTVs are not produced domestically; and (2) they do not compete in any meaningful way with CTVs that are produced in the United States. On September 23, 2003, the petitioners opposed this request.

After considering the interested party comments and the petitioners' objections to the exclusion request regarding the Panasonic multi-system, dual/auto voltage CTVs, we find that the CTVs in question fall within the scope of this investigation. All CTVs, including the CTVs in question, have the same fundamental characteristics—that is they are capable of receiving a broadcast signal and displaying a video image. Therefore, we conclude that all CTVs, whether having multiple signal capability or dual/auto voltage,

including the multi-system, dual/auto voltage CTVs produced by PAVCKM and sold by Algert, are appropriately included in the scope of this investigation. For a further discussion, see the memorandum to Louis Apple, Director, Office 2 from Michael Strollo entitled "Scope Exclusion Request," dated November 21, 2003.

Class or Kind

As part of its scope request, Algert/Panasonic argued that the Panasonic multi-system, dual/auto voltage CTVs fall into a separate class or kind of merchandise from other color televisions. In considering whether this product should be considered a separate class or kind, we analyzed the arguments submitted by all of the interested parties in the context of the criteria enumerated in the court decision *Diversified Products Corp. v. United States*, 572 F. Supp. 883, 889 (CIT 1983) (*Diversified*). For this analysis, we relied upon the petition, the submissions by all interested parties, the preliminary determination made by the ITC, and other information.

The criteria set forth in *Diversified* to examine whether differences in class or kind exist are as follows: (1) The general physical characteristics of the merchandise; (2) the expectations of the ultimate purchaser; (3) the ultimate use of the merchandise; (4) the channels of trade in which the merchandise moves, and; (5) the manner in which the product is advertised or displayed. Based upon the evaluation of these criteria, we preliminarily find that Panasonic multi-system, dual/auto voltage CTVs are the same class or kind of merchandise as the other CTVs included within the scope of this investigation. Specifically, we note that the essential physical characteristics of a Panasonic multi-system, dual/auto voltage CTV and a standard CTV are the same (*i.e.*, an electronic product capable of receiving a broadcast television signal and producing a video image); the ultimate use of the product (*i.e.*, the receipt of a broadcast television signal and the production of a video image) and as such, the expectations of the ultimate purchasers, are the same for all CTVs; channels of distribution (*i.e.*, retail outlets) are the same; and finally, the CTVs in question are clearly advertised and displayed as CTVs. Consequently, we preliminarily find that the CTVs in question do not constitute a separate class or kind of merchandise.

Fair Value Comparisons

To determine whether sales of certain color televisions from Malaysia to the

United States were made at LTFV, we compared the export price (EP) or constructed export price (CEP) to the Normal Value (NV), as described in the "Export Price/Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average EPs and CEPs to NVs.

For this preliminary determination, we have determined that Funai Malaysia did not have a viable home or third country market. Therefore, as the basis for NV, we used constructed value (CV) when making comparisons in accordance with section 773(a)(4) of the Act.

Export Price/Constructed Export Price

In accordance with section 772(a) of the Act, we calculated EP for those sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation by the exporter or producer outside the United States. We based EP on the packed price to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign warehousing, foreign inland freight, foreign inland insurance, and foreign brokerage and handling expenses.

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the merchandise was sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

We based CEP on the packed delivered prices to unaffiliated purchasers in the United States. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign warehousing expenses, foreign inland insurance, foreign brokerage and handling expenses, ocean freight, marine insurance, U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland insurance, U.S. inland freight expenses (*i.e.*, freight from port to warehouse and freight from warehouse to the customer), post-sale warehousing expenses, and intra-warehousing transfer expenses. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities