

1997 through April 1997 time period, which respondents characterize as a market upturn) during the course of the third administrative review. While we based our conclusions in this Redetermination on evidence contained in the existing record of the third review, we reevaluated this evidence in light of the Department's revised standard for revocation. We do not deem it appropriate to solicit new factual information from the parties as the purpose of this Redetermination is to gauge whether revocation would have been appropriate based upon the record evidence at the time the Department issued the Final Results had we applied a WTO-consistent standard. Therefore, the following analysis is based on market conditions as they existed at the time of our third review final results- July 1997- and references to future expectations of market conditions are to the future as it would have appeared in July 1997. As we fully explain below, the Department concludes, based on the reevaluation of record evidence, that the continued application of the dumping order was necessary to offset dumping.

We note that, in our analysis, pursuant to 19 CFR 351.222(b), as amended, we considered the same factors relevant to the likelihood of future dumping (e.g., trends in prices and costs, investment, currency movements, and production capacity) as we considered in the Final Results. Furthermore, as discussed above, since we did not solicit new factual information for this Redetermination, we considered the same factual information that was available for our analysis in the Final Results. Consequently, our analysis in this Redetermination often parallels our analysis in the Final Results. However, in this Redetermination, we applied our analysis to the new revocation standard in 19 CFR 351.222(b), as amended.

On the basis of our examination of the information on the record, we continue to find the following: (1) the DRAM market was in a slump as of July 1997 (when the Final Results was

signed and published), with steep price declines in the DRAM market beginning in January 1996 and with forecasts of continued price declines; (2) the downturn resulted in declines of sales and revenues in the DRAM market, growth in inventories of DRAMs, and the existence of significant oversupplies of DRAMs; (3) the Korean respondents and other DRAM producers continued to increase DRAM production during the downturn; (4) the Korean respondents would have likely continued to maintain a substantial presence in the U.S. market during various phases of the business cycle (including periods of significant price decline) due to the Korean's substantial capacity and large demand in the U.S.; and (5) based on the information on the record, Korean pricing in the United States appeared, according to price trends, to be at or near normal value, indicating that only a slight downward movement in U.S. price following the third period of review would likely result in dumping margins. These points reflect the necessity of the order to offset dumping and are discussed in more detail below.

The DRAM industry is highly cyclical, market prices for DRAMs are generally lower during periods of downturn and there is a history of dumping in the DRAM industry during such periods. For instance, various foreign producers were found to have dumped during the downturn in the mid-1980s (see Dynamic Random Access Memory Devices from Japan, 51 FR 15943 (April 29, 1986)), and the Korean respondents in this proceeding were found to have dumped in the less than fair value investigation during 1991-1992, the last period (as of July 1997) when there was a significant downturn in the DRAM industry. It is therefore reasonable to conclude that an examination of the selling activities and pricing practices of respondents during such downturn periods will provide the Department with a reasonable indication as to whether the continued application of the dumping order is necessary to offset dumping. We find the

January through December 1996 period to be especially relevant because it corresponded with a significant downturn in the DRAM industry, it occurred since the order has been in place, and it took place, in part, immediately following the period of review covered by the Final Results.

The United States is part of the world's largest market for DRAMs, and has considerable potential for growth. Given the importance of this market, the respondents would have been likely to continue to maintain a significant presence in the U. S. market during various phases of the business cycle. This conclusion is supported by the fact that DRAM producers, including the respondents, have historically been found to have dumped in the United States during downturns.

During the 1996 downturn, industry revenues significantly declined. For instance, according to Electronic Buyers News, total worldwide market revenue plunged 38% to \$25.13 billion in 1996. Both Hyundai and LGS reported large decreases in revenues in their 1996 publicly available financial statements. Prices in late June 1997 were still lower than in the years preceding the 1996 market downturn, during which the respondents were found not to be dumping. Furthermore, prices had, in fact, decreased in the latest data available for the record. According to Dataquest ("The Semiconductor DQ MONDAY Report", Issue 24, June 23, 1997, and Issue 25, June 30, 1997) the spot market price for the 1Mx16 EDO DRAM decreased from the \$7.45 to \$8.09 range on June 13 to the \$6.30 to \$6.85 range on June 27. Similarly, the price for the higher-density 64M DRAM continued to fall. In fact, the average price for a 64M DRAM, as of July 1997, was in the mid \$40 range, down from \$55 earlier that year. In sum, although the DRAM market stabilized somewhat by July 1997, prices continued to fluctuate and a large degree of uncertainty remained about the direction of the market.

We find a pattern of deteriorating market conditions that often give rise to dumping in the

respondents' own pricing. This finding is based on the following evidence: (1) The respondents' own sales and cost data indicate that there was a considerable number of home market sales made at prices below cost of production ("COP") during the two months immediately following the close of the third administrative review; (2) the lowest point of the downturn, in terms of DRAM pricing and other market conditions, did not occur until after mid-1996 (well after the end of the third administrative review period); and (3) publicly available spot market pricing data, when compared with the respondent's cost data (extrapolated to a future point in time), indicate that LGS and Hyundai may have made U.S. sales at prices below COP during 1996. In addition, we find that the respondents made several changes to their costs in the period immediately following the third review period, including changes in depreciation and foreign exchange loss write-offs. For a complete analysis, see the Memorandum to the File from Tom Futtner to Jeffrey P. Bialos, dated July 16, 1997, on file in room B-099 of the main Commerce building.

The respondents' data indicate that products were sold in the home market at prices below the COP during May and June of 1996, the two months immediately following the end of the third review period. According to the Department's questionnaire for the third review, the respondents were required to report costs and sales for May and June of 1996 to ensure that the proper cost test and contemporaneous sales comparisons could be performed. These data demonstrate that, as the downturn in the DRAM market worsened, the sales made below cost for both respondents increased in these two months. We note that, according to the Department's cost test methodology, these below cost sales were not sufficient in number for the Department to reject them as a basis for determining normal value in the third review. We also note that

whether either respondent made home market sales at prices below the COP during the two months immediately following the close of the third review period in and of itself does not demonstrate that dumping occurred. However, in light of the market conditions during the downturn and the fact that the months actually examined during the POR did not include the lowest point in the downturn, we find that the existence of below-cost sales during May and June of 1996 suggests that, as the DRAM market worsened, the number of below-cost sales increased following the end of the third review period. As prices in the DRAM market fell, a significant number of sales were made below cost.

The petitioner took the respondent's actual reported costs for the third administrative review and projected these costs through the year using the same rate of decline experienced in the industry during 1995. Given that costs typically decline over time in the DRAM industry, we find the petitioner's approach to estimating the respondents' COP to be reasonable.

We recognize that the petitioner based its analysis upon average U.S. spot market prices instead of contract prices. However, it appears that contract prices generally follow the same pricing patterns as spot market prices. The record demonstrates that contract prices to original equipment manufacturer ("OEM") customers, which are negotiated on a quarterly basis, follow the direction of prices on the spot market. Thus, according to our record, changes in prices to OEM customers simply lagged behind spot prices. There is even evidence on the record indicating that the actual contract prices were sometimes lower than the average spot prices presented in the petitioner's analysis. In fact, even into 1997, prices to OEM customers remained depressed, and below spot market prices, even as the spot market prices began to show some increase.

Furthermore, the record is clear that the prices used by the petitioner, which were compiled by Lehman Brothers, were similar to other pricing data submitted on the record, including the pricing data obtained from the American Integrated Chip Exchange (AICE) and Dataquest. We also note that petitioner's pricing data generally followed the same downward trend of other pricing data on the record, including the AICE data noted above. In fact, all pricing data on the record followed the same downward trend throughout 1996, whether they were based on a simple average or not.

We note that Korean DRAM producers import machinery and equipment and many raw materials. In fact, both respondents recorded large foreign exchange losses for fiscal year 1996. Therefore, the depreciation of the won may have actually tended to increase the respondents' COP, making them more likely to dump in the United States. At the very least, we find no basis in the record to conclude that this exchange rate depreciation entirely favored the respondents.

The record further demonstrates that supply exceeded demand during 1996 and most of 1997. While there were conflicting reports as to whether respondents were actually decreasing their DRAM production levels during the 1996 downturn period, prices fell substantially during 1996 and, by July 1997, had not yet fully stabilized. In addition, although the respondents made public announcements regarding cut-backs in DRAM production, and, as a result, it appears that DRAMs prices increased, it is unclear, based on the information on the record, how much of an effect this had on the overall supply of DRAMs. Similarly, it was uncertain how long it was going to be before production returned to previous levels in anticipation of increased demand in the marketplace. According to Electronic Buyer's News (January 27, 1997, Issue 1042), an upturn in demand in October 1996, triggered a simultaneous increase in production. As a result,