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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman 
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Large Residential Washers from Korea: Decision Memorandum
for the Preliminary Results of the Antidumping Duty
Administrative Review; 2012-2014

I. SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on large residential washers (LRWs) from the Republic of Korea (Korea). The review covers three producer/exporters of the subject merchandise: Daewoo Electronics Corporation (Daewoo), LG Electronics, Inc. (LGE), and Samsung Electronics Co., Ltd. (Samsung). The period of review (POR) is August 3, 2012, through January 31, 2014. We preliminarily find that Daewoo, LGE, and Samsung made sales of the subject merchandise at prices below normal value (NV) during this POR.

II. BACKGROUND

On February 15, 2013, the Department published the AD order on large residential washers from Korea.¹ On February 3, 2014, the Department published, in the Federal Register, a notice of opportunity to request an administrative review of the AD order on LRWs from Korea for the period August 3, 2012, through January 31, 2014.² The Department received requests to conduct an administrative review from LGE, with respect to its exports of subject merchandise to the United States during the POR,³ and Whirlpool Corporation (Whirlpool), a domestic producer of the subject merchandise and the petitioner in the less-than-fair-value (LTFV) investigation (the petitioner), with respect to Daewoo, LGE, and Samsung.⁴ On April 1, 2014, in accordance with

¹ See Large Residential Washers From Mexico and the Republic of Korea: Antidumping Duty Orders, 78 FR 11148 (February 15, 2013) (Order).

² See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity To Request Administrative Review, 79 FR 6159 (February 3, 2014).

³ See Letter from LGE "LG Electronics' Request for Antidumping Administrative Review Large Residential Washers from Korea" (February 19, 2014).

⁴ See Letter from Whirlpool "Large Residential Washers from Korea: Request for Administrative Review of



19 CFR 351.221(c)(1)(i), we published a notice of initiation of an administrative review of the AD order on LRWs from Korea.⁵

On April 9, 2014, we issued the Initial AD Questionnaire to each of the three mandatory respondents –Daewoo, LGE, and Samsung.⁶ On May 9, 2014, Samsung advised the Department that it would not respond to the Department’s questionnaire.⁷ Daewoo neither entered an appearance in this administrative review, nor responded to the Department’s questionnaire by the submission deadline. LGE submitted its initial questionnaire responses in May and June 2014.

We issued supplemental questionnaires to LGE in July and October 2014. Responses to these supplemental questionnaires were received between August 2014 and January 2015.

On October 10, 2014, we extended the time period for issuing the preliminary results of this administrative review until March 2, 2015.⁸

LGE submitted comments on February 5, 2015, regarding the treatment of its U.S. sales of damaged and defective merchandise. Whirlpool submitted a rebuttal to these comments on February 12, 2015. LGE’s submission and Whirlpool’s rebuttal raise significant issues and were not submitted in sufficient time for us to complete our analysis and make a determination in these preliminary results. We intend to consider these comments and any additional arguments regarding the treatment of LGE’s U.S. sales of damaged and defective merchandise for our final results.

III. SCOPE OF THE ORDER

The products covered by the order are all large residential washers and certain subassemblies thereof from Korea. The term “large residential washers” denotes all automatic clothes washing machines, regardless of the orientation of the rotational axis, except as noted below, 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).

Also covered are certain subassemblies used in large residential washers, namely: (1) all assembled cabinets designed for use in large residential washers which incorporate, at a minimum: (a) at least three of the six cabinet surfaces; and (b) a bracket; (2) all assembled tubs⁹ designed for use in large residential washers which incorporate, at a minimum: (a) a tub; and (b)

Antidumping Order” (February 24, 2014).

⁵ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 79 FR 18262 (April 1, 2014) (Initiation Notice).

⁶ See Letters from Irene Darzenta Tzafolias, Program Manager, AD/CVD Operations Office II, to Daewoo, LGE, and Samsung (April 9, 2014) (Initial AD Questionnaire).

⁷ See Letters from Samsung “Samsung Decision Not to Participate in First Administrative Review of Large Residential Washers from the Republic of Korea” (May 9, 2014).

⁸ See Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from James Maeder, Director, Office II, Antidumping and Countervailing Duty Operations “Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Reviews” (October 10, 2014).

⁹ A “tub” is the part of the washer designed to hold water.

a seal; (3) all assembled baskets¹⁰ designed for use in large residential washers which incorporate, at a minimum: (a) a side wrapper;¹¹ (b) a base; and (c) a drive hub;¹² and (4) any combination of the foregoing 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” market meeting either of the following two definitions:

(1) (a) it contains payment system electronics;¹³ (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;¹⁴ 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,¹⁵ 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 with a vertical rotational axis and a rated capacity of less than 3.7 cubic feet, as certified to the U.S. Department of Energy pursuant to 10 CFR 429.12 and 10 CFR 429.20, and in accordance with the test procedures established in 10 CFR Part 430.

¹⁰ A “basket” (sometimes referred to as a “drum”) is the part of the washer designed to hold clothing or other fabrics.

¹¹ A “side wrapper” is the cylindrical part of the basket that actually holds the clothing or other fabrics.

¹² A “drive hub” is the hub at the center of the base that bears the load from the motor.

¹³ “Payment system electronics” denotes a circuit board designed to receive signals from a payment acceptance device and to display payment amount, selected settings, and cycle status. Such electronics also capture cycles and payment history and provide for transmission to a reader.

¹⁴ A “security fastener” is a screw with a non-standard head that requires a non-standard driver. Examples include those with a pin in the center of the head as a “center pin reject” feature to prevent standard Allen wrenches or Torx drivers from working.

¹⁵ “Normal operation” refers to the operating mode(s) available to end users (*i.e.*, not a mode designed for testing or repair by a technician).

The products subject to this review are currently classifiable under subheadings 8450.20.0040 and 8450.20.0080 of the Harmonized Tariff System of the United States (HTSUS).¹⁶ 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 scope is dispositive.

IV. DISCUSSION OF THE METHODOLOGY

A. Use of Facts Otherwise Available and Adverse Inferences

Sections 776(a)(1) and (2) of the Act provide that the Department shall, subject to section 782(d) of the Act, use “facts otherwise available” if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that the Department may use an adverse inference in relying on the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information.¹⁷ An adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.¹⁸

For purposes of these preliminary results, we find it necessary to rely on adverse facts available (AFA) for the calculation of the margins for Daewoo and Samsung, as detailed below.

1. Application of AFA: Daewoo and Samsung

As discussed above, the Department issued its Initial AD Questionnaire to Daewoo, LGE, and Samsung, following the selection of these companies as mandatory respondents for this administrative review. On May 9, 2014, Samsung advised the Department that it would not respond to the Department’s questionnaire. Daewoo also did not provide a response to that questionnaire, and additionally never filed an entry of appearance in this administrative review.¹⁹

¹⁶ These HTSUS numbers are revised from the numbers stated previously in the scope. See Memorandum to the File entitled “Changes to the HTS Numbers to the ACE Case Reference Files for the Antidumping Duty Orders,” dated January 6, 2015.

¹⁷ See, e.g., Notice of Final Results of Antidumping Duty Administrative Review, and Final Determination to Revoke the Order In Part: Individually Quick Frozen Red Raspberries from Chile, 72 FR 70295, 70297 (December 11, 2007).

¹⁸ See 19 CFR 351.308(c)(1).

¹⁹ The Department confirmed that Daewoo received the questionnaire. See Memorandum to the File entitled “Documentation Confirming Delivery and Receipt of the Antidumping Duty Questionnaire Issued to Daewoo Electronics Corporation,” dated April 16, 2014.

Because of their failure to participate in this review, and their decision not to respond to the Department's Initial AD Questionnaire, we preliminarily find that Daewoo and Samsung withheld information that had been requested and failed to provide information within the deadlines established. We further find that by not responding to the questionnaire, Daewoo and Samsung significantly impeded this proceeding. Accordingly, in reaching our preliminary determination, pursuant to sections 776(a)(1), and 776(a)(2)(A), (B) and (C) of the Act, we relied on the use of facts otherwise available for the calculation of the AD margin for Daewoo and Samsung.

Pursuant to section 776(b) of the Act, we find that an adverse inference is warranted in relying on the facts otherwise available, because, by not responding to the initial questionnaire, Daewoo and Samsung did not cooperate to the best of their ability to comply with a request for information in this review.²⁰ We, therefore, preliminarily find that AFA is warranted to ensure that Daewoo and Samsung do not obtain a more favorable result by failing to cooperate than had they fully complied with our request for information.

2. Selection of the AFA Rate

In deciding which facts to use as AFA, section 776(b) of the Act authorizes the Department to rely on information derived from: (1) the petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any other information placed on the record.²¹ It is the Department's practice, when selecting an AFA rate from among the possible sources of information, to ensure that the rate is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner."²² This approach ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."²³

Pursuant to this methodology, we preliminarily assign Daewoo and Samsung the AFA rate of 82.41 percent – the highest margin stated in the LTFV petition (as adjusted at initiation), and subsequently used as the AFA rate in the final determination of the LTFV investigation.²⁴

²⁰ See, e.g., Stainless Steel Sheet and Strip in Coils From Japan: Preliminary Results of Antidumping Duty Administrative Review, 70 FR 18369 (April 11, 2005), unchanged in Stainless Steel Sheet and Strip in Coils from Japan: Final Results of Antidumping Duty Administrative Review, 70 FR 37759 (June 30, 2005) (KSC/JFE's counsel contacted the Department to state that KSC/JFE would not be submitting a response to the Department's antidumping questionnaire).

²¹ See also 19 CFR 351.308(c).

²² See, e.g., Certain Steel Concrete Reinforcing Bars from Turkey: Final Results and Rescission of Antidumping Duty Administrative Review in Part, 71 FR 65082, 65084 (November 7, 2006); see also Narrow Woven Ribbons with Woven Selvedge from Taiwan: Final Results of Antidumping Duty Administrative Review: 2010-2011, 77 FR 72825, 72826 (December 6, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

²³ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I, at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199 (SAA).

²⁴ See Large Residential Washers From the Republic of Korea and Mexico: Initiation of Antidumping Duty Investigations, 77 FR 4007, 4011 (January 26, 2012) (LTFV Initiation Notice); see also Notice of Final Determination of Sales at Less Than Fair Value: Large Residential Washers From the Republic of Korea, 77 FR 75988, 75990 (December 26, 2012) (LTFV Final).

3. Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”²⁵ The SAA clarifies that to “corroborate” secondary information means that the Department will satisfy itself that the secondary information to be used has probative value.²⁶ To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.²⁷

We have examined the transaction-specific margins calculated for LGE for this POR and compared them to the selected AFA rate of 82.41 percent, and find they are within the range of, and above, the 82.41 percent rate.²⁸ As such, the AFA rate is relevant as applied to Daewoo and Samsung for this administrative review. This methodology is consistent with the Department’s past practice, and has been affirmed by the Court of Appeals for the Federal Circuit (CAFC).²⁹ Additionally, the selected AFA rate of 82.41 percent was corroborated in the LTFV investigation to the extent practicable, and nothing on the record of this review calls into question that corroboration analysis or the reliability of the rate.³⁰ The Court of International Trade (CIT) and the CAFC have affirmed similar decisions by the Department on numerous occasions.³¹ For these reasons, we preliminarily find that the 82.41 percent rate continues to be reliable and relevant for the purposes of this review, and is, therefore, corroborated “to the extent practicable” as provided in section 776(c) of the Act.

²⁵ See 19 CFR 351.308(c) and (d); see also SAA, at 870.

²⁶ See SAA, at 870.

²⁷ See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan: Preliminary Results of Antidumping Duty Administrative Reviews and partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996) (unchanged in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan: Final Results of Antidumping Administrative Reviews and Termination in Part, 62 FR 11825 (March 13, 1997)).

²⁸ See Memorandum to the File entitled “Corroboration of Secondary Information Used as Adverse Facts Available in Preliminary Results,” dated concurrently with this memorandum.

²⁹ See Narrow Woven Ribbons With Woven Selvedge From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 41808, 41811 (July 19, 2010); see also PAM, S.p.A. v. United States, 582 F.3d 1336, 1340 (Fed. Cir. 2009).

³⁰ See LTFV Final at 75990.

³¹ See, e.g., Fujian Lianfu Forestry Co., Ltd. v. United States, 638 F. Supp. 2d 1325, 1336 (CIT 2009) (held that the Department may begin its total AFA selection process by defaulting to the highest rate in any segment of the proceeding, but that the selection must then be corroborated to the extent practicable); see also KYD, Inc. v. United States, 607 F.3d 760, 766-767 (CAFC 2010) (discussing favorably the “presumption that a prior dumping margin imposed against an exporter in an earlier administrative review continues to be valid if the exporter fails to cooperate in a subsequent administrative review.”); see also NSK Ltd. v. United States, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (affirming a 73.55 percent total AFA rate, the highest available dumping margin calculated for a different respondent in the investigation).

B. NV Comparisons

Pursuant to 19 CFR 351.414, to determine whether LGE's sales of LRWs from Korea were made to the United States at less than NV, we compared the export price (EP) or constructed export price (CEP) to the NV, as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this memorandum, below.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (the average-to-average method (A-A) method), unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, the Department examines whether to use the average-to-transaction (A-T) method as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in antidumping investigations.³²

In recent proceedings, the Department has applied a "differential pricing" analysis for determining whether application of A-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act. The Department finds that the differential pricing analysis used in recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.³³ The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-A method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer code. Regions are defined using the reported destination code (*i.e.*, state) and are grouped into regions based upon standard definitions published by the U.S. Census

³² See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1; see also CP Kelco Oy v. United States, 978 F. Supp. 2d 1315, 1324 (CIT 2014).

³³ See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33351 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 3; see also Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013, 79 FR 70163 (November 25, 2014), and accompanying Issues and Decision Memorandum at Comment 2.

Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP or CEP and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium, or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales in the test group were found to pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (i.e., 0.8) threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the A-T method to all sales as an alternative to the A-A method. If the value of sales to purchasers, regions, and time periods that passes the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-T method to those sales identified as passing the Cohen’s *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the A-A method.

If both tests in the first stage (i.e., the Cohen’s *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the A-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen’s *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the A-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-A method cannot account for differences such as those observed in this analysis and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if (1) there is a 25 percent relative change in the weighted-

average dumping margin between the A-A method and the appropriate alternative method where both rates are above the de minimis threshold, or (2) the resulting weighted-average dumping margin moves across the de minimis threshold.

Interested parties may present arguments in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

2. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, the Department finds that 47.12 percent of LGE's U.S. sales confirms the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods.³⁴ Further, the Department determines that the A-A method cannot appropriately account for such differences because the resulting weighted-average dumping margins move across the de minimis threshold when calculated using the A-A method and an alternative method based on the A-T method applied to those U.S. sales which passed the Cohen's *d* test. Accordingly, the Department has preliminarily determined to use the A-T method for those U.S. sales which passed the Cohen's *d* test and the A-A method for those U.S. sales which do not pass the Cohen's *d* test to calculate the weighted-average dumping margin for LGE.

C. Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by LGE in Korea during the POR that fit the description in the "Scope of the Order" section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. Pursuant to 19 CFR 351.414(f), we compared U.S. sales of LRW to sales of LRW made in the home market within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. sale.

In making product comparisons of finished LRW units, we matched foreign like products based on the physical characteristics reported by LGE in the following order of importance: unit type, washer type, capacity measurement, drying system, finish/color of front panel, user interface display, specialty cycle, door/lid material, motor type, water heater, and shoe care function. In making product comparisons of subassemblies, we matched foreign like products based on the physical characteristics reported by LGE in the following order of importance: unit type, washer type of finished unit; capacity measurement of finished unit; and finish (for cabinet subassemblies).

³⁴ Further discussion of the differential pricing analysis is included in the Memorandum entitled, "Preliminary Results Margin Calculation for LGE," dated concurrently with this memorandum (LGE Calculation Memo).

With respect to LGE's sales of damaged and defective merchandise (*i.e.*, non-prime merchandise) in the U.S. market, the Department's normal practice is to match sales of non-prime merchandise in the U.S. market with sales of non-prime merchandise in the home market.³⁵ If there are no comparable sales in the home market, the U.S. sales of non-prime merchandise will be matched to constructed value (CV). LGE did not sell non-prime merchandise in the home market. Accordingly, we compared LGE's non-prime merchandise sales in the U.S. market to CV.

D. EP and CEP

In accordance with section 772(a) of the Act, we calculated EP for those sales where the subject merchandise was first sold to an unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted based on the facts of the record. Pursuant to section 772(b) of the Act, we calculated CEP for those sales where the subject merchandise was first 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 EP and CEP on the packed prices to unaffiliated purchasers in the United States. We increased the starting price by the amount of billing adjustments and freight revenue, where appropriate. We capped reimbursements for freight expenses by the amount of freight expenses incurred on the subject merchandise, in accordance with our practice.³⁶ We also increased the starting price by the amount of duty drawback reported by LGE, in accordance with section 772(c)(1)(B) of the Act. We made deductions for discounts and rebates, as appropriate.

We also made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these expenses included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, U.S. duty, U.S. warehousing, and U.S. inland freight. Regarding foreign inland freight, LGE used an affiliated company to arrange delivery of its merchandise to the port of exportation. Because LGE's affiliate did not provide the same service to unaffiliated parties, nor did LGE use unaffiliated companies for its deliveries, we were unable to test the arm's-length nature of the expenses paid by LGE. Therefore, we based these expenses on the affiliate's costs as reported by LGE.³⁷

For CEP sales, 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 occurring in the United States, including direct selling expenses (*i.e.*, imputed credit expenses, bank charges, flooring fees, advertising expenses, and warranty expenses), offset by restocking fees collected by LGE,

³⁵ See, e.g., Notice of Final Determination of Sales at Less Than Fair Value; Certain Hot-Rolled Carbon Steel Flat Products From The Netherlands, 66 FR 50408 (October 3, 2001), and accompanying Issues and Decision Memorandum at Comment 9.

³⁶ See, e.g., Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination, 77 FR 63291 (October 16, 2012), and accompanying Issues and Decision Memorandum at Comment 6.

³⁷ See June 2, 2014, response to section B of the Departments' questionnaire (QRB) at page B-31 and Exhibit B-24-2, and June 2, 2014, response to section C of the Department's questionnaire (QRC) at pages C-29 – C-30.

where applicable, and indirect selling expenses (including inventory carrying costs). Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by LGE on its sales of the subject merchandise in the United States and the profit associated with those sales.

E. NV

1. Home Market Viability and Selection of Comparison Market

To determine whether there is a sufficient quantity of sales in the home market to serve as a viable basis for calculating LGE's NV, we compared the volume of LGE's home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404. Based on this comparison, we determined that, pursuant to 19 CFR 351.404(b), LGE had a viable home market during the POR because the volume of LGE's home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise. Consequently, pursuant to section 773(a)(1)(B)(i) of the Act and 19 CFR 351.404(c)(1)(i), we based LGE's NV on its home market sales.

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

During the POR, LGE sold foreign like product to affiliated customers. We did not conduct the arm's-length test with respect to LGE, because LGE reported the downstream sales made by its affiliated reseller, HiPlaza Inc. (HiPlaza), rather than the sales it made to its affiliated reseller. We used these downstream sales in our analysis for the preliminary determination.

3. Level of Trade (LOT)

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same LOT as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).³⁸ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.³⁹ In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market (*i.e.*, the chain of distribution), including selling functions and class of customer (customer category).

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),⁴⁰ we consider the

³⁸ See 19 CFR 351.412(c)(2).

³⁹ *Id.*; see also Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part, 75 FR 50999 (August 18, 2010), and accompanying Issues and Decision Memorandum at Comment 7 (OJ from Brazil).

⁴⁰ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative (SG&A) expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.⁴¹

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment is possible), the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁴²

In this administrative review, we obtained information from LGE regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities performed by LGE for each channel of distribution.⁴³ Our LOT finding is summarized below.

In the home market, LGE reported that it made sales through three channels of distribution (*i.e.*, sales to individual consumers (Channel 1), sales to retailers (Channel 2), and sales to corporate consumers (Channel 3)). LGE reported that it performed the following selling functions for sales to all home market customers: direct sales personnel; marketing; order input; cash discounts; rebates; sales promotion; strategic/economic planning, sales forecasting; packing; freight and delivery arrangements; inventory management; and warranty/after sales services. LGE also reported that it provided dealer/distributor training for sales in channels 1 and 2, and paid commissions for sales in channel 3. In addition to these activities, LGE reported that HiPlaza maintained an extensive retail presence in Korea during the POR, and performed the following additional selling functions for its sales to unaffiliated retail customers: sales forecasting, advertising, sales promotion, rebates, order input, and direct sales personnel/sales support.

These selling activities can be generally grouped into four selling function categories for analysis: (1) sales and marketing; (2) freight and delivery services; (3) inventory maintenance and warehousing; and (4) warranty and technical support. Accordingly, we find that LGE performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical support at the same relative level of intensity for its three reported sales channels to unaffiliated customers in the home market. Thus, we consider these three channels to constitute one LOT. Regarding sales made by LGE's affiliated retailer, we find that HiPlaza performed additional sales and marketing functions for sales to its customers. These additional selling functions are sufficient to determine that HiPlaza's home market sales were at a more advanced LOT than those made by LGE to unaffiliated customers.

⁴¹ See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

⁴² See, *e.g.*, *OJ from Brazil* at Comment 7.

⁴³ See LGE's response to section A of the Department's questionnaire, dated May 27, 2014(QRA) at pages A-18 – A-46, and Exhibits A-10 – A-12; and LGE's response to the Department's first supplemental questionnaire for Sections A, B and C, dated August 4, 2014 (SQR1) at pages 8 – 9, and Exhibit First Supp. A-4.

Accordingly, based on the totality of the facts and circumstances, we preliminarily determine that LGE made sales at two LOTs in the home market.⁴⁴

With respect to the U.S. market, LGE reported that it made U.S. sales through five channels of distribution (*i.e.*, sales of branded products to large national and regional retailers (Channel 1), Brand and original equipment manufacturer (OEM) sales through the customers' designated warehouse (Channel 2), direct delivery (Channel 3), EP sales to an OEM customer (Channel 4), and sales of scrap and defective merchandise (Channel 5)). Channel 5 sales are of non-prime merchandise which we are comparing to CV, as discussed above. For the four channels of distribution of prime merchandise sales, LGE reported that it performed the following selling functions in Korea for sales to U.S. customers: packing functions, strategic/economic planning, marketing, order input, direct sales personnel, warranty/after sales service, and freight and delivery arrangement. These selling activities can be generally grouped into three selling function categories for analysis: (1) sales and marketing; (2) freight and delivery services; and (3) warranty and technical support. Accordingly, based on the selling function categories, we find that LGE performed sales and marketing, freight and delivery services, and warranty and technical support for U.S. sales, and that these functions were performed at the same or similar level of intensity in Channels 1, 2, 3, and 4 in the U.S. market. Because the selling functions performed by LGE in Korea do not differ significantly among these 4 channels, we preliminarily determine that there is one LOT in the U.S. market.

Finally, we compared the U.S. LOT to the home market LOTs and found that the selling functions LGE performed for its home market customers are more advanced than those performed for its U.S. customers. That is, there is a broader range of selling functions performed in the home market (at both home market LOTs) than in the U.S. market, and these functions are performed at a higher level of intensity than in the U.S. market. This difference is sufficient to determine that LGE's U.S. LOT is different from the home market LOTs. Therefore, based on the totality of the facts and circumstances, we preliminarily determine that sales to the home market during the POR were made at different LOTs than sales to the United States. Additionally, because LGE's home market LOTs are at a more advanced stage of distribution than its U.S. LOT and no LOT adjustment is possible, a CEP offset is warranted. Accordingly, we granted a CEP offset pursuant to section 773(a)(7)(B) of the Act.

With respect to LGE's Channel 5 sales of non-prime merchandise in the U.S. market, which we are comparing to CV, we based the NV LOT on the LOT of the home market Channel 1 and 2 sales, in accordance with 19 CFR 351.412(c)(1). We preliminarily determine this LOT to be the closest home market LOT to the U.S. sales. Because this LOT is at a more advanced stage of distribution than the U.S. LOT and no LOT adjustment is possible, as discussed above, we also granted a CEP offset for these U.S.-price-to-CV comparisons.

⁴⁴ Under virtually the identical fact pattern, the Department also found two LOTs in LGE's home market in the underlying LTFV investigation. See 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, 46397-98 (August 3, 2012) (LTFV Prelim); unchanged in LTFV Final.

F. Cost of Production (COP) Analysis

We found that LGE made sales to the home market below the COP in the most recently completed segment of this proceeding as of the date of initiation of this review, and such sales were disregarded.⁴⁵ Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, we preliminarily find that there are reasonable grounds to believe or suspect that LGE made sales in the comparison market at prices below the cost of producing the merchandise during the current POR. Accordingly, we are conducting a sales-below-cost investigation to determine whether LGE's comparison market sales were made at prices below their COP. We examined LGE's cost data and determined that our quarterly cost methodology is not warranted and, therefore, we applied our standard methodology of using annual costs based on the reported data.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated LGE's COP based on the sum of its costs of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses (see "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses).

We relied on the COP data submitted by LGE. We considered Whirlpool's allegation of close supplier affiliations,⁴⁶ and have preliminarily determined that the record does not support a finding that LGE is in a position to control these companies, within the meaning of Section 771(33)(G) of the Act. See memorandum entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results--LG Electronics Inc. and LG Electronics USA, Inc." (LGE Cost Calculation Memo), dated concurrently with this notice.

2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the weighted-average COP to the home market sales prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sales prices were below the COP. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices were exclusive of any applicable billing adjustments, discounts and rebates, movement charges, actual direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act: 1) whether, within an extended period of time, such sales were made in substantial quantities; and 2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. Sales made at prices below the COP are made in substantial quantities if the volume of such sales represents 20 percent or more of the volume of the respondent's home market sales of a given product in accordance with section 773(b)(2)(C) of the Act. Thus, we disregard the

⁴⁵ See LTFV Prelim at 46399; unchanged in LTFV Final.

⁴⁶ See Whirlpool's June 26, 2014, letter.

below-cost sales when: 1) they were made within an extended period of time in substantial quantities, in accordance with sections 773(b)(2)(B) and (C) of the Act, and 2) based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Because we are applying our standard annual-average cost test in these preliminary results, we have also applied our standard cost recovery test with no adjustments.

We found that, for certain specific products, more than 20 percent of LGE's home market sales during the POR were at prices less than the COP and, in addition, the below-cost sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

G. Calculation of NV Based on Comparison-Market Prices

We calculated NV based on delivered prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for discounts and rebates. We also made deductions for movement expenses, including inland freight, handling, and warehousing, under section 773(a)(6)(B)(ii) of the Act. Regarding inland freight, handling, and warehousing, LGE paid an affiliated company to arrange unaffiliated subcontractors to perform these services. Because LGE's affiliate did not provide the same service to unaffiliated parties, nor did LGE use unaffiliated companies for these services, we were unable to test the arm's-length nature of the expenses paid by LGE. Therefore, we based these expenses on the affiliate's costs as reported by LGE.⁴⁷

For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for direct selling expenses, i.e., imputed credit, bank charges, direct advertising and promotional expenses, warranty expenses, and commissions.

For comparisons to CEP sales, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we deducted from NV direct selling expenses, i.e., imputed credit, bank charges, direct advertising and promotional expenses, warranty expenses, and commissions. We made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

For all price-to-price comparisons, where commissions were granted in the home market but not in the U.S. market, we made an upward adjustment to NV for the lesser of: (1) the amount of commission paid in the home market; or (2) the amount of indirect selling expenses (including inventory carrying costs) incurred in the U.S. market. See 19 CFR 351.410(e). Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19

⁴⁷ See QRB at page B-31 and Exhibit B-24-2.

CFR 351.411. We also deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act.

H. Calculation of NV Based on CV

In accordance with section 773(e) of the Act, and where applicable, we calculated CV based on the sum of LGE's material and fabrication costs, SG&A expenses, profit and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by LGE in connection with the production and sale of the foreign like product at the most similar LOT as the U.S. sale, as discussed above, in the ordinary course of trade, for consumption in the comparison market.


We made adjustments to CV for differences in circumstances of sale, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses on home market sales or the indirect selling expenses deducted from the starting price in calculating CEP. We also made an upward adjustment to NV for the lesser of: (1) the amount of commission paid in the home market; or (2) the amount of indirect selling expenses (including inventory carrying costs) incurred in the U.S. market, in accordance with 19 CFR 351.410(e).

I. Currency Conversion

Where necessary, the Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.


V. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

2 MARCH 2015
(Date)