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March 4, 2016

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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

SUBJECT: Large Residential Washers from Korea: Decision Memorandum  
for the Preliminary Results of the Antidumping Duty  
Administrative Review; 2014-2015

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## 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 one producer/exporter of the subject merchandise: LG Electronics, Inc. (LGE). The period of review (POR) is February 1, 2014, through January 31, 2015. We preliminarily find that LGE 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 LRWs from Korea.<sup>1</sup> On February 2, 2015, 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 February 1, 2014, through January 31, 2015.<sup>2</sup> On February 11, 2015, LGE requested that the Department conduct a review of LGE's sales and shipments to the United States during the POR.<sup>3</sup> On February 26, 2015, Whirlpool Corporation, the petitioner, requested that the Department conduct an administrative review of the sales of LGE, Samsung Electronics Co., Ltd. (Samsung), and Daewoo Electronics Corporation (Daewoo).<sup>4</sup> On April 3, 2015, the Department published in the

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

<sup>2</sup> See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 80 FR 5509 (February 2, 2015).

<sup>3</sup> See February 11, 2015, letter from LGE regarding request for administrative review.

<sup>4</sup> See February 26, 2015, letter from the petitioner regarding request for administrative review.



Federal Register a notice of initiation of an administrative review of the antidumping duty order on LRWs from Korea with respect to the above-named companies.<sup>5</sup>

On May 29, 2015, the petitioner timely withdrew its request for a review of Samsung and Daewoo.<sup>6</sup> The Department published a notice of partial rescission of the antidumping duty administrative review with respect to Daewoo and Samsung on September 14, 2015.<sup>7</sup>

We issued the initial AD Questionnaire in April 2015, and received LGE's initial questionnaire responses in May and June 2015. We issued supplemental questionnaires to LGE between July and December 2015. Responses to these supplemental questionnaires were received between August 2015 and January 2016.

On October 20, 2015, we extended the time period for issuing the preliminary results of this administrative review until February 29, 2016.<sup>8</sup> As explained in the memorandum from the Acting Assistant Secretary for Enforcement & Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the preliminary results of this review is now March 4, 2016.<sup>9</sup>

### **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 tubs<sup>10</sup> designed for use in large residential washers which incorporate, at a minimum: (a) a tub; and (b) a seal; (3) all assembled baskets<sup>11</sup> designed for use in large residential washers which

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<sup>5</sup> See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 80 FR 18202 (April 3, 2015).

<sup>6</sup> See May 29, 2015, letter from the petitioner regarding withdrawal of request for review.

<sup>7</sup> See Large Residential Washers From the Republic of Korea: Partial Rescission of Antidumping Duty Administrative Review; 2014-2015, 80 FR 55091 (September 14, 2015).

<sup>8</sup> See Memorandum entitled "Large Residential Washers from Mexico and the Republic of Korea: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Reviews," dated October 20, 2015.

<sup>9</sup> See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas," dated January 27, 2016.

<sup>10</sup> A "tub" is the part of the washer designed to hold water.

<sup>11</sup> A "basket" (sometimes referred to as a "drum") is the part of the washer designed to hold clothing or other fabrics.

incorporate, at a minimum: (a) a side wrapper;<sup>12</sup> (b) a base; and (c) a drive hub;<sup>13</sup> 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;<sup>14</sup> (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;<sup>15</sup> 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,<sup>16</sup> 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.

The products subject to this order are currently classifiable under subheadings 8450.20.0040 and 8450.20.0080 of the Harmonized Tariff System of the United States (HTSUS).<sup>17</sup> Products

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<sup>12</sup> A “side wrapper” is the cylindrical part of the basket that actually holds the clothing or other fabrics.

<sup>13</sup> A “drive hub” is the hub at the center of the base that bears the load from the motor.

<sup>14</sup> “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.

<sup>15</sup> 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.

<sup>16</sup> “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).

<sup>17</sup> These HTSUS numbers are revised from the numbers stated previously in the scope. See Memorandum to the

subject to this order 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. NV Comparisons**

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1), (d), and (e) in order to determine whether LGE's sales of the subject merchandise from Korea to the United States were made at less than NV, the Department compared the export price (EP) and constructed export price (CEP) to the normal value as described in the "EP and CEP" and "NV" sections of this memorandum.

#### **1. Determination of Comparison Method**

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales (*i.e.*, the average-to-transaction 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 less-than-fair-value investigations.<sup>18</sup>

In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>19</sup> The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. 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

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File entitled "Changes to the HTS Numbers to the ACE Case Reference Files for the Antidumping Duty Orders," dated January 6, 2015.

<sup>18</sup> 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 the accompanying Issues and Decision Memorandum at Comment 1; see also JBF RAK LLC v. United States, 790 F.3d 1358, 1363–65 (Fed. Cir. 2015) ("{t}he fact that the statute is silent with regard to administrative reviews does not preclude Commerce from filling gaps in the statute to properly calculate and assign antidumping duties") (citations omitted).

<sup>19</sup> See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair, 78 FR 33351 (June 4, 2013); Steel Concrete Reinforcing Bar From Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, 79 FR 54967 (September 15, 2014); and Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value, 80 FR 61362 (October 13, 2015).

addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of review based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. 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* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period 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 prices to the particular purchaser, region or time period differ significantly from the 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 (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are 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 account 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 average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass 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 average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average 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 average-to-average 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, the Department examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative comparison 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 average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison 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 margins between the average-to-average method and the appropriate alternative method where both rates are above the de minimis threshold, or 2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the de minimis threshold.

Interested parties may present arguments and justifications 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**

For LGE, based on the results of the differential pricing analysis, the Department preliminarily finds that 53.60 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>20</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that the average-to-average method cannot account for such differences because the weighted-average dumping margin crosses the de minimis threshold when calculated using the average-to-average method and when calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, the Department is applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test to calculate the weighted-average dumping margin for LGE.

### **B. 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,

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<sup>20</sup> See Memorandum entitled, "Preliminary Results Margin Calculation for LGE," dated concurrently with this memorandum (LGE Calculation Memo).

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 LRWs to sales of LRWs 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).

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.<sup>21</sup> If there are no comparable sales in the home market, the U.S. sales of non-prime merchandise are 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.

### **C. 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.<sup>22</sup> We also increased the

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<sup>21</sup> 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.

<sup>22</sup> 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.

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.<sup>23</sup>

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, 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.

For these preliminary results, we accepted the reported amounts of duty drawback. However, the Department recently took steps to refine its methodology for applying the duty drawback adjustment.<sup>24</sup> We intend to request additional information from LGE regarding its claim for this adjustment and will evaluate the information to determine whether the recently-applied refinements to the duty drawback methodology should be applied in the final results.

LGE reported that some of its sales of non-prime merchandise to specialty liquidators made during the POR were resales of units reported as prime merchandise in either this POR or the previous POR.<sup>25</sup> Accordingly, we excluded from our margin analysis those sales of non-prime LRWs which LGE was able to tie by unit serial number to a previous sale of that unit reported in the U.S. sales database of prime merchandise.

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<sup>23</sup> See June 5, 2015, response to section B of the Departments' questionnaire (QRB) at page B-32 and Exhibit B-25, and June 5, 2015, response to section C of the Department's questionnaire (QRC) at pages C-32 – C-33.

<sup>24</sup> See Certain Corrosion-Resistant Steel Products From India: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 81 FR 63 (January 4, 2016), and accompanying Decision Memorandum at pages 13-16.

<sup>25</sup> See QRC at Exhibit C-3a, and LGE's response to the Department's first supplemental questionnaire for Sections A, B and C, dated October 16, 2015 (SQR1) at pages 12-13 and Exhibits FS C-2 and FS C-3.



## **D. 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 as defined in 771(33) of the Act. We did not conduct the arm's-length test pursuant to 19 CFR 351.404(c) 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 results.

### **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).<sup>26</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>27</sup> 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),<sup>28</sup> we consider the 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.<sup>29</sup>

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<sup>26</sup> See 19 CFR 351.412(c)(2).

<sup>27</sup> *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).

<sup>28</sup> 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).

<sup>29</sup> See Micron Tech., Inc. v. United States, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

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.<sup>30</sup>

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.<sup>31</sup> Our LOT finding is summarized below.

In the home market, LGE reported that it made sales of its finished units 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, based on the selling function categories, 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. Accordingly, based on the totality of the facts and circumstances, we preliminarily determine that LGE made sales at two LOTs in the home market.<sup>32</sup>

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<sup>30</sup> See, e.g., OJ from Brazil at Comment 7.

<sup>31</sup> See LGE's response to section A of the Department's questionnaire, dated May 15, 2015 (QRA) at pages A-18 – A-45, and Exhibits A-13 – A-15; and SQR1 at page 2, and Exhibits FS A-1 and FS-2.

<sup>32</sup> Under similar fact patterns, the Department also found two LOTs in LGE's home market in the underlying LTFV investigation, and in the first administrative review. See Notice of Preliminary Determination of Sales at Less Than

With respect to the U.S. market, LGE reported that it made U.S. sales of its finished units through four 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 sales (Channel 3), and sales of scrap and defective merchandise (Channel 4)). Channel 4 sales are of non-prime merchandise which we are comparing to CV, as discussed above. For the three channels of distribution of prime merchandise, 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, and 3 in the U.S. market. Because the selling functions performed by LGE in Korea do not differ significantly among these 3 channels, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the sales of subassemblies, LGE reports that, in the home market, it made these sales through a single sales channel of distribution (*i.e.*, sales to "Authorized Service Centers" (Channel 1)). In the U.S. market, LGE reports that it sold subassemblies through two sales channels (*i.e.*, direct sales to unaffiliated U.S. customers (Channel 1), and sales through its U.S. affiliate LG Electronics Alabama Inc. (LGEAI) to unaffiliated U.S. customers (Channel 2)). LGE claimed proprietary treatment for most of its description of the selling functions performed for sales of subassemblies in both markets.<sup>33</sup> Based on our analysis of these functions, we preliminarily determine that LGE performed these functions at the same or similar level of intensity within each market. Accordingly, we preliminarily determine that there is one LOT in the home and U.S. market for sales of subassemblies. The LOT in each market for sales of subassemblies is equivalent to the LOT for finished units in that 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 of both finished units and subassemblies 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

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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 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); and Large Residential Washers From the Republic of Korea: Preliminary Results of the Antidumping Duty Administrative Review: 2012-2014, 80 FR 12456, (March 9, 2015) (AR1 Prelim), and accompanying Decision Memorandum at pages 11-13; unchanged in Large Residential Washers From the Republic of Korea: Final Results of the Antidumping Duty Administrative Review: 2012-2014, 80 FR 55595 (September 16, 2015) (AR1 Final).

<sup>33</sup> See SQR1 at pages 3-5 and Exhibits FS A-4 and A-5.

preliminarily determine that sales of finished units and subassemblies 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 4 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 that of 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.

## **E. 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.<sup>34</sup> 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.<sup>35</sup> 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 without revision.

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<sup>34</sup> See LTFV Prelim at 46399; unchanged in LTFV Final.

<sup>35</sup> On June 29, 2015, President Obama signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and countervailing duty law, including amendments to section 773(b)(2) of the Act, regarding the Department's requests for information on sales at less than COP. See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for certain amendments to the Act. See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015, 80 FR 46793 (August 6, 2015). Section 773(b)(2)(A) of the Act, as amended by the TPEA, controls all determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. Because the complete initial questionnaire in this review was issued prior to August 6, 2015, section 773(b)(2)(A) of the Act, as amended by the TPEA, does not apply to these preliminary results.

## **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 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.

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 as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

## **F. Calculation of NV Based on Comparison Market Prices**

We calculated NV based on delivered prices to unaffiliated customers. We made adjustments, where appropriate, from the starting price for billing adjustments, 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.<sup>36</sup>

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

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<sup>36</sup> See QRB at page B-32 and Exhibit B-25.

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 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.

#### **G. 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).

#### **H. 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

4 MARCH 2016  
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(Date)