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MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the 2017-
2018 Administrative Review of the Antidumping Duty Order on
Large Residential Washers from the Republic of Korea

I. SUMMARY

The Department of Commerce (Commerce) 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, 2017, through January 31, 2018. We preliminarily determine that LGE did not make sales below normal value (NV) during the period of review (POR).

II. BACKGROUND

In February 2013, Commerce published in the *Federal Register* an AD order on LRWs from Korea.¹ On February 1, 2018, Commerce 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, 2017, through January 31, 2018.²

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

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 4639 (February 1, 2018).



Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(1), in February 2018, Commerce received timely requests to conduct an administrative review from both LGE and Whirlpool Corporation, the petitioner in this proceeding.³ On April 16, 2018, in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of administrative review for LGE.⁴

On April 27, 2018, we issued the AD questionnaire to LGE. In June 2018, LGE submitted timely responses to sections A through D of Commerce's questionnaire.⁵ On August 1, 2018, we issued a supplemental questionnaire to LGE, and we received LGE's response to it on September 5, 2018.⁶

III. SCOPE OF THE ORDER

The products covered by the order are all large residential washers and certain subassemblies thereof from Korea.

For purposes of this order, 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 tubs⁷ designed for use in large residential washers which incorporate, at a minimum: (a) a tub; and (b) a seal; (3) all assembled baskets⁸ designed for use in large residential washers which incorporate, at a minimum: (a) a side wrapper;⁹ (b) a base; and (c) a drive hub;¹⁰ 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:

³ See Petitioner's Letter, "Large Residential Washers from Korea: Request for Administrative Review of Antidumping Duty Order," dated February 8, 2018; and LGE's Letter, "LG Electronics' Request for Antidumping Administrative Review Large Residential Washers from Korea," dated February 9, 2018.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 16298, 16304 (April 16, 2018).

⁵ See LGE's June 1, 2018 Section A Questionnaire Response (AQR); LGE's June 18, 2018, Section B Questionnaire Response (BQR); LGE's June 18, 2018 Section C Questionnaire Response (CQR); and LGE's June 18, 2018 Section D Questionnaire Response.

⁶ See LGE's September 5, 2018 Supplemental Sections A-D Questionnaire Response (SQR).

⁷ A "tub" is the part of the washer designed to hold water.

⁸ A "basket" (sometimes referred to as a "drum") is the part of the washer designed to hold clothing or other fabrics.

⁹ A "side wrapper" is the cylindrical part of the basket that actually holds the clothing or other fabrics.

¹⁰ A "drive hub" is the hub at the center of the base that bears the load from the motor.

(1) (a) it contains payment system electronics;¹¹ (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;¹² 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,¹³ 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 3.70 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). Products 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. Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether LGE's sales of LRWs from Korea to the United States were made at less than NV,

¹¹ "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.

¹² 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.

¹³ "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).

Commerce compared the export price (EP) and constructed export price (CEP) to NV, as described in the “Export Price and Constructed Export Price” and “Normal Value” sections of this memorandum.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (*i.e.*, the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value (LTFV) investigations, Commerce examines whether to compare weighted-average NVs with the EPs or CEPs of individual sales (*i.e.*, 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 Commerce’s examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in LTFV investigations.¹⁴

In recent investigations, Commerce applied a “differential pricing” analysis for determining whether application of the A-T method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.¹⁵ Commerce 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. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce’s additional experience with addressing the potential masking of dumping that can occur when Commerce uses the A-A 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 A-A 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.*, state) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined

¹⁴ 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 (IDM) 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).

¹⁵ 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); *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).

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 Commerce 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 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 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 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, Commerce examines whether using only the A-A method can appropriately account for such differences. In considering this question, Commerce 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 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 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 A-A 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 A-A 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, Commerce preliminarily finds that 24.80 percent of the value of U.S. sales pass the Cohen's *d* test.¹⁶ These results do not confirm the existence of a pattern of prices that differ significantly among purchasers, regions or time periods. Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an alternative to the A-A method. Accordingly, Commerce preliminarily determines to apply the A-A method for all U.S. sales 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, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. 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.

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. 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).

¹⁶ See Memorandum, "Preliminary Results Margin Calculations 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 United States, Commerce's normal practice is to match sales of non-prime merchandise in the United States with sales of non-prime merchandise in the home market.¹⁷ If there are no comparable sales in the home market, the U.S. sales of non-prime merchandise are matched to constructed value (CV).¹⁸ LGE did not sell non-prime merchandise in the home market. Accordingly, we compared LGE's non-prime merchandise sales in the United States to CV.

C. Export Price and Constructed Export Price

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 the first unaffiliated purchaser in the United States. We increased the starting price by the amount of billing adjustments, where appropriate, pursuant to 19 CFR 351.401(c). 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 expenses, foreign brokerage and handling expenses, international freight expenses, marine insurance expenses, U.S. brokerage and handling expenses, U.S. duty expenses, U.S. warehousing expenses, and U.S. inland freight expenses offset by freight revenue. We capped freight revenue by the amount of U.S. inland freight expenses incurred on the subject merchandise, in accordance with our practice.¹⁹ Regarding foreign inland freight expenses, 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.²⁰

¹⁷ See, e.g., *Large Residential Washers from the Republic of Korea: Preliminary Results of the Antidumping Duty Administrative Review*; 2015-2016, 82 FR 12536 (March 6, 2017), and accompanying Preliminary Decision Memorandum (PDM) at 7-8 (*LRWs 2015-2016 Prelim*) (unchanged in *Large Residential Washers from the Republic of Korea: Final Results of Antidumping Duty Administrative Review*; 2015-2016, 82 FR 42788 (September 12, 2017) (*LRWs 2015-2016 Final*)); see also *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 IDM at Comment 9.

¹⁸ See *LRWs 2015-2016 Prelim* and accompanying PDM at 7-8 (unchanged in *LRWs 2015-2016 Final*).

¹⁹ 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 IDM at Comment 6.

²⁰ See BQR at B-31 – B-32 and Exhibit B-24; and CQR at C-35 – C-36.

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, 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 the 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.

Finally, LGE stated that it made certain sales of non-prime merchandise to specialty liquidators during the POR which were resales of units reported as prime merchandise in either this or a previous POR.²¹ Accordingly, we excluded from our margin analysis those sales of non-prime LRWs which LGE was able to tie to a previous entry of that unit as prime merchandise.

D. Normal Value

1. Home Market Viability and Selection of Comparison Market

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), 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

In this review, LGE sold foreign like product to affiliated and unaffiliated customers in the home market as defined in section 771(33) of the Act. LGE was not able to demonstrate that its sales to its affiliated reseller, HiPlaza Inc. (HiPlaza) were at arm's length.²² Therefore, we did not conduct the arm's length test pursuant to 19 CFR 351.403(c) with respect to these sales to HiPlaza. Instead, because LGE reported HiPlaza's downstream sales to its unaffiliated customers, we used these downstream sales in our analysis for the preliminary results.

3. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different

²¹ See CQR at Exhibits C-1 and C-3.

²² See BQR at 17 and Exhibit B-23.

LOTs if they are made at different marketing stages (or their equivalent).²³ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.²⁴ 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), we consider the starting prices before any adjustments.²⁵ 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.²⁶

When Commerce 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, Commerce 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), then Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.²⁷

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.²⁸ 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 to unaffiliated customers (*i.e.*, sales to individual consumers (Channel 1), sales to retailers (Channel 2), and sales to corporate consumers (Channel 3)). In addition, LGE reported home market sales made by its affiliated reseller, HiPlaza, to unaffiliated retail customers

²³ See 19 CFR 351.412(c)(2).

²⁴ *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 IDM at Comment 7 (*OJ from Brazil*).

²⁵ 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 *e.g.*, *Citric Acid and Certain Citrate Salts from Canada: Preliminary Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 5246 (February 6, 2018), and accompanying PDM at 7-8, n.11 (unchanged in *Citric Acid and Certain Citrate Salts from Canada: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 14263 (April 3, 2018)); see also *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 47081, 47086 (August 4, 2004) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 76910 (December 23, 2004)).

²⁶ See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

²⁷ See, *e.g.*, *OJ from Brazil* IDM at Comment 7.

²⁸ See AQR at 19-51 and Exhibits A-13 – A-17.

(Channel 4). LGE reported that it performed the following selling functions for sales to all home market customers: direct sales personnel/sales support; marketing; order input; rebates; sales promotion; strategic/economic planning, sales forecasting; freight and delivery arrangements; inventory maintenance; warranty/after sales services; and packing. LGE also reported that it provided cash discounts and dealer/distributor training for sales in Channels 1 and 2, and paid commissions for sales in Channel 3.²⁹ In addition to these activities, LGE reported that HiPlaza performed the following additional selling functions for its home market sales: direct sales personnel/sales support, order input, rebates, sales promotion, strategic/economic planning, sales forecasting, and inventory maintenance.

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 sales to unaffiliated customers in the home market through its three channels of distribution. Thus, we preliminarily find that sales to these three channels constitute one LOT. Regarding sales made by LGE's affiliated reseller, we find that HiPlaza performed additional sales and marketing functions for sales to its retail 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.³⁰

With respect to sales in the United States, LGE reported that it made U.S. sales of its finished units through five channels of distribution (*i.e.*, sales of branded products to large national and regional retailers (Channel 1), brand and original equipment manufacturer sales through the customers' designated warehouse (Channel 2), direct delivery sales (Channel 3), sales of scrap and defective merchandise (Channel 4), and sales of branded products through retailers installed

²⁹ *Id.*

³⁰ This LOT finding in this review is consistent with Commerce's finding of two LOTs in LGE's home market in the underlying LTFV investigation and in the previous administrative reviews of this AD order. 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) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Large Residential Washers from the Republic of Korea*, 77 FR 75988 (December 26, 2012)); *Large Residential Washers from the Republic of Korea: Preliminary Results of the Antidumping Duty Administrative Review; 2012-2014*, 80 FR 12456 (March 9, 2015), and accompanying PDM at 11-13 (*LRWs 2012-2014 Prelim*) (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) (*LRWs 2012-2014 Final*)); *Large Residential Washers from the Republic of Korea: Preliminary Results of the Antidumping Duty Administrative Review; 2014- 2015*, 81 FR 12875 (March 11, 2016), and accompanying PDM at 9-12 (*LRWs 2014-2015 Prelim*) (unchanged in *Large Residential Washers from the Republic of Korea: Final Results of the Antidumping Duty Administrative Review, 2014-2015*, 81 FR 62715 (September 12, 2016) (*LRWs 2014-2015 Final*)); *LRWs 2015-2016 Prelim* and accompanying PDM at 9-12 (unchanged in *LRWs 2015-2016 Final*); *Large Residential Washers from the Republic of Korea: Preliminary Results of the Antidumping Duty Administrative Review; 2016-2017*, 82 FR 51813 (November 8, 2017), and accompanying PDM at 8-11 (*LRWs 2016-2017 Prelim*) (unchanged in *Large Residential Washers from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 4467 (January 31, 2018) (*LRWs 2016-2017 Final*)).

at the final end user (Channel 5)). As discussed above, LGE's Channel 4 sales are of non-prime merchandise which we are comparing to CV. For the four channels of distribution of prime merchandise, LGE reported that it performed the following selling functions in Korea for sales to U.S. customers: direct sales personnel, strategic/economic planning, sales forecasting, marketing, warranty/after sales service, inventory maintenance, freight and delivery arrangements, and packing. 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 to all four channels of distribution. Therefore, because the selling functions LGE performed in Korea do not differ significantly among these four channels, we preliminarily determine that LGE made sales at one LOT in the United States.³¹

With respect to its sales of subassemblies, LGE reported that it made these sales through a single sales channel of distribution in the home market (*i.e.*, sales through regional distribution centers to affiliated and unaffiliated customers (Channel 1)) and one channel of distribution in the United States (*i.e.*, sales through its U.S. affiliate LG Electronics Alabama Inc. to unaffiliated U.S. customers (Channel 1)). LGE reported that it performed the following selling functions for sales through this channel of distribution in both the home market and United States: sales forecasting, strategic/economic planning, market research, technical assistance, inventory maintenance, and packing. In addition, LGE performed order input/processing, direct sales personnel, warranty service, and freight and delivery selling functions for subassembly sales in the home market, and customs clearance selling function for subassembly sales in the United States.³² We also preliminarily find that LGE performed these selling functions at the same or similar level of intensity within each market. Accordingly, we preliminarily determine that there is one LOT in both the home market and United States for sales of subassemblies and that this LOT for sales of subassemblies in each market is equivalent to the LOT for LGE's direct sales of finished units in each market.³³

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 United States, and these functions are performed at a higher level of intensity than in the United States. This difference is sufficient to determine that LGE's U.S. LOT is different from its home market LOTs. Therefore, based on the totality of the facts and circumstances, we 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

³¹ See *LRWs 2012-2014 Prelim* and accompanying PDM at 11-13 (unchanged in *LRWs 2012-2014 Final*); *LRWs 2014-2015 Prelim* and accompanying PDM at 9-12 (unchanged in *LRWs 2014-2015 Final*); *LRWs 2015-2016 Prelim* and accompanying PDM at 9-12 (unchanged in *LRWs 2015-2016 Final*); *LRWs 2016-2017 Prelim* and accompanying PDM at 8-11 (unchanged in *LRWs 2016-2017 Final*).

³² See AQR at Exhibit A-17.

³³ See *LRWs 2014-2015 Prelim* and accompanying PDM at 9-12 (unchanged in *LRWs 2014-2015 Final*); *LRWs 2015-2016 Prelim* and accompanying PDM at 9-12 (unchanged in *LRWs 2015-2016 Final*); *LRWs 2016-2017 Prelim* and accompanying PDM at 8-11 (unchanged in *LRWs 2016-2017 Final*).

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 United States 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 is 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 Analysis

Pursuant to the amendment of section 773(b)(2)(A) of the Act, Commerce required that respondents provide constructed value and cost of production (COP) information to determine if there were reasonable grounds to believe or suspect that sales of foreign like product had been made at prices that represented less than the COP of the product.

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 expenses and interest expenses (*see* "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses).

Based on our review of the record evidence, LGE does not appear to have experienced significant changes in the cost of manufacturing during the POR. Therefore, we followed our normal methodology of calculating an annual weighted-average cost. Commerce relied on the COP data submitted by LGE in its most recently submitted cost database for the COP calculation. We made no changes to LGE's reported costs.

2. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the weighted-average COP to the home market sales prices of the foreign like product, 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 in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's home market sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: (1) the sales 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 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 as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

For those U.S. sales of subject merchandise for which there were no comparable home market sales in the ordinary course of trade, we compared CEP to CV in accordance with section 773(a)(4) of the Act. *See* "Calculation of Normal Value Based on CV" section below.

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 in accordance with 19 CFR 351.401(c). We also made deductions for movement expenses, including inland freight expenses, handling expenses, and warehousing expenses, under section 773(a)(6)(B)(ii) of the Act. Regarding inland freight expenses, handling expenses, and warehousing expenses, 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 such 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.³⁴

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 expenses, direct advertising and promotional expenses, warranty expenses, and commissions). LGE reported negative selling promotion expenses (DIRSEL2H) for certain home market sales.³⁵ Therefore, we set all reported negative DIRSEL2H amounts to zero.³⁶ 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

³⁴ *See* BQR at 37-38 and 41.

³⁵ *See* SQR at 7-9.

³⁶ *See* LGE Calculation Memo for further discussion.

lesser of the indirect selling expenses on the home market sales or the U.S. indirect selling expenses deducted from the starting price in calculating CEP.

We added U.S. packing costs and deducted home market packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. For all price-to-price comparisons, where commissions were granted in the home market but not in the United States, 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 United States.³⁷ We also 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 based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.³⁸

G. Calculation of NV Based on CV

For LGE's U.S. sales of non-prime merchandise, we based normal value on CV in accordance with section 773(a)(4) of the Act. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of LGE's material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the COP component of CV as described above in the "Calculation of COP" section of this memorandum. 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 U.S. 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 United States, in accordance with 19 CFR 351.410(e).

H. Currency Conversion

We 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.

³⁷ See 19 CFR 351.410(e).

³⁸ See 19 CFR 351.411(b).

V. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree

Disagree

10/29/2018

X  _____

Signed by: GARY TAVERMAN

Gary Taverman

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance