circumstances exist with respect to exports of ESBR from Korea by Kumho (*see, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Collated Roofing Nails From Korea*, 62 FR 25895, 25898 (May 12, 1997)). Regarding all other exporters, because we do not find that critical circumstances exist for Kumho, we determine that critical circumstances do not exist for Hyundai, or for companies covered by the ''All Others'' rate. We will make a final determination concerning critical circumstances when we make our final determination in this investigation, if that final determination is affirmative.

Verification

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Korea Kumho Petrochemical Co., Ltd.	13.91
Hyundai Petrochemical Co., Ltd.	118.88
All Others	13.91

Pursuant to section 735(c)(5)(A) of the Act, the Department has excluded any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act, from the calculation of the ''All Others Rate.''

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than February 5, 1999, and rebuttal briefs no later than February 12, 1999. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on February 15, 1999, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is issued and published pursuant to sections 773(d) and 777(i) of the Act.

Dated: October 28, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–29552 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–821]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Emulsion Styrene-Butadiene Rubber from Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Sunkyu Kim or John Maloney, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2613 or (202) 482–1503, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are references to 19 CFR part 351 (62 FR 27296, May 19, 1997).

Preliminary Determination

We preliminarily determine that emulsion styrene-butadiene rubber (ESBR) from Mexico is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margin of sales at LTFV is shown in the ''Suspension of Liquidation'' section of this notice, below.

Case History

Since the initiation of this investigation (*see Notice of Initiation of Antidumping Investigations: Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, and Mexico* (63 FR 20575, April 27, 1998)), the following events have occurred:

On May 18, 1998, the United States International Trade Commission (ITC) issued an affirmative preliminary injury determination in this case (*see* ITC Investigation Nos. 731–TA–794–796).

In May and June 1998, the Department obtained information from the U.S. Embassy in Mexico identifying Industrias Negromex, S.A. de C.V. (Negromex) as the only producer and/or exporter of the subject merchandise to the United States. Based on this

information, the Department issued the antidumping questionnaire to Negromex in May 1998.

In June 1998, the Department received a response from Negromex to Section A of the questionnaire. Negromex submitted its response to Sections B and C of the questionnaire in July 1998.

On July 21, 1998, pursuant to section 733(c)(1)(A) of the Act, the petitioners made a timely request to postpone the preliminary determination. The petitioners filed an explanatory amendment to that request on July 23, 1998. We granted this request and, on July 28, 1998, postponed the preliminary determination until no later than October 28, 1998 (*see Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Emulsion Styrene-Butadiene Rubber From Brazil, the Republic of Korea, and Mexico* (63 FR 41544, August 4, 1998)).

On July 27, 1998, the petitioners submitted a timely allegation, pursuant to section 773(b) of the Act, that Negromex had made sales in the home market at less than the cost of production (COP). Our analysis of that allegation indicated that there were reasonable grounds to believe or suspect that Negromex sold ESBR in the home market at prices less than the COP. Accordingly, on August 21, 1998, we initiated a COP investigation with respect to ESBR pursuant to section 773(b) of the Act (*see* Memorandum from Team to Louis Apple, Director, Office 5, dated August 21, 1998).

We issued a supplemental questionnaire for Sections A, B, and C to Negromex in August 1998 and received a response to that supplemental questionnaire, along with revised U.S. and home market sales listings, in September 1998. In those revised sales listings, Negromex included, at the request of the Department, one ''sample'' U.S. sale for which Negromex received payment and transferred ownership to the customer. We received Negromex's response to Section D of the questionnaire in September 1998. In October 1998, we issued a supplemental questionnaire for Section D to Negromex, but the response to that supplemental questionnaire, submitted on October 23, 1998, was not considered for purposes of the preliminary determination because of a lack of time to properly analyze the response. We will consider it, however, for purposes of the final determination.

Postponement of Final Determination and Extension of Provisional Measures

On October 14, 1998, Negromex requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until no later than 135 days after the publication of this notice in the **Federal Register**, pursuant to section 735(a)(2)(A) of the Act. Negromex also requested that the Department extend provisional measures pursuant to section 733(d) of the Act from four months to not more than six months. In accordance with 19 CFR 351.210(e), because: (1) Our preliminary determination is affirmative; (2) Negromex accounts for a significant proportion of exports of the subject merchandise; (3) no compelling reasons for denial exist; and (4) Negromex has requested an extension of provisional measures, we are granting this request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of Investigation

For purposes of this investigation, the product covered is ESBR. ESBR is a synthetic polymer made via free radical cold emulsion copolymerization of styrene and butadiene monomers in reactors. The reaction process involves combining styrene and butadiene monomers in water, with an initiator system, an emulsifier system, and molecular weight modifiers. ESBR consists of cold non-pigmented rubbers and cold oil extended non-pigmented rubbers that contain at least one percent of organic acids from the emulsion polymerization process.

ESBR is produced and sold, both inside the United States and internationally, in accordance with a generally accepted set of product specifications issued by the International Institute of Synthetic Rubber Producers (IISRP). The universe of products subject to this investigation are grades of ESBR included in the IISRP 1500 series and IISRP 1700 series of synthetic rubbers. The 1500 grades are light in color and are often described as ''Clear'' or ''White Rubber.'' The 1700 grades are oil-extended and thus darker in color, and are often called ''Brown Rubber.'' ESBR is used primarily in the production of tires. It is also used in a variety of other products, including conveyor belts, shoe soles, some kinds of hoses, roller coverings, and flooring.

Products manufactured by blending ESBR with other polymers, high styrene resin master batch, carbon black master batch (*i.e.*, IISRP 1600 series and 1800 series) and latex (an intermediate product) are not included within the scope of this investigation.

The products under investigation are currently classifiable under subheading 4002.19.0010 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1997, through March 31, 1998.

Fair Value Comparisons

To determine whether sales of ESBR from Mexico to the United States were made at less than fair value, we compared the constructed export price (CEP) to the Normal Value (NV) for Negromex, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average CEPs for comparison to weighted-average NVs.

On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *CEMEX, S.A.* v. *United States*, 133 F. 3d 897 (Fed. Cir. 1998). In that case, based on the pre-URAA version of the Act, the Court discussed the appropriateness of using constructed value (CV) as the basis for foreign market value when the Department finds home market sales to be outside the ''ordinary course of trade.'' This issue was not raised by any party in this proceeding. However, the URAA amended the definition of sales outside the ''ordinary course of trade'' to include sales below cost. *See* Section 771(15) of the Act. Consequently, the Department has reconsidered its practice in accordance with this court decision and has determined that it would be inappropriate to resort directly to CV, in lieu of foreign market sales, as the basis for NV if the Department finds foreign market sales of merchandise identical or most similar to that sold in the United States to be outside the ''ordinary course of trade.'' Instead, the Department will use sales of similar merchandise, if such sales exist. The Department will use CV as the basis for NV only when there are no above-cost sales that are otherwise suitable for comparison. Therefore, in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the ''Scope of Investigation'' section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product

comparisons to U.S. sales. 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, based on the characteristics listed in Sections B and C of our antidumping questionnaire.

Level of Trade and CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value (CV), that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP, the LOT is also that of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer in the comparison market. If the comparison-market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731 (November 19, 1997).

For its home market sales, Negromex reported: (1) Four customer categories—large purchaser end users, other end users, unaffiliated distributors, and small footwear manufacturers; and (2) three channels of distribution—direct sales to large purchaser/other end users, direct sales to unaffiliated distributors, and direct sales to small footwear manufacturers through its Guadalajara warehouse. Negromex claimed two levels of trade in the home market: (1) Direct sales to large purchasers and other end users; and (2) direct sales to unaffiliated distributors and small footwear manufacturers through Guadalajara. For its U.S. sales, Negromex reported that its affiliated importer, GIRSA, Inc. (GIRSA), made sales to: (1) Two customer categories—large purchaser end users and other end users; and (2) through one channel of distribution. Negromex claimed one level of trade in the U.S. market (the CEP sale to GIRSA).

According to Negromex, there is no level of trade in the home market that is comparable to the CEP level of trade (Negromex's sales to GIRSA). Negromex asserts that its CEP level of trade involves few selling activities while, in contrast, its NV levels of trade (home market sales to the four classes of customers) involve significantly greater selling activities. Thus, Negromex contends that each of its proffered NV levels of trade occurs at a different, and more advanced, marketing stage than its CEP level of trade. Based on that contention, Negromex requests that the Department apply a CEP offset by adjusting NV under section 773(a)(7)(B) of the Act (the CEP offset provision). Accordingly, we have performed an analysis of the information on the record to determine whether a LOT adjustment, or in the alternative, a CEP offset, is warranted.

In order to determine whether NV was established at a different LOT than CEP sales, we examined stages in the marketing process and selling functions along the chains of distribution between Negromex and its home market customers. We compared the selling functions performed for home market sales with those performed with respect to the CEP transaction, exclusive of economic activities occurring in the United States, pursuant to section 772(d) of the Act, to determine if the home market levels of trade constituted more advanced stages of distribution than the CEP level of trade.

Based on an analysis of the information on the record, we found that Negromex made sales in the home market at two distinct levels of trade, the end user level of trade and the unaffiliated distributor level of trade, each representing different marketing stages and tiers of selling functions and services. In addition, we found that one of the levels of trade in the home market, sales to unaffiliated distributors, was comparable to the CEP level of trade because of the similarities between the class of customer and distribution channel. Our analysis of the chains of distribution and selling functions performed for sales to unaffiliated distributors in the home market and CEP sales in the U.S. market indicated that both are made at the same stage in the marketing process and involve analogous levels of selling functions. For a detailed explanation of this analysis, see the memorandum to The File through James Maeder from The Team, issued for the preliminary determination of this investigation, dated October 28, 1998.

To the extent possible, we have used home market sales at the unaffiliated distributor level of trade for comparison purposes in our analysis without making a LOT adjustment. When we were unable to find sales of the foreign like product in the home market at the same LOT as the U.S. sales, we determined whether a LOT adjustment was warranted. To make that determination, pursuant to section 773(a)(7)(A)(ii) of the Act, we performed an analysis to ascertain whether there was a pattern of consistent price differences between the end user level of trade in the home market and the unaffiliated distributor level of trade in the home market, which is analogous to the CEP level of trade. To accomplish this, we compared the weighted-average of Negromex's NV prices of sales made at both home market levels of trade for products sold at both levels. We base our findings on whether the weighted-average prices are higher for a preponderance of sales concerning the quantities of each product sold. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et. al.: Preliminary Results of Antidumping Duty Administrative Reviews* (61 FR 35713, July 8, 1996). Because the weighted-average prices were higher at the end user level of trade for a preponderance of the products and quantities sold, we found that there was a pattern of consistent price differences between the products sold at the two levels of trade in the home market. Thus, we made an adjustment to NV for the difference in levels of trade when we made our comparison of CEP sales to home market sales at the end user level of trade.

Negromex requested a CEP offset in this investigation. Section 773(a)(7)(B) of the Act establishes that a CEP ''offset'' may be made when two conditions exist: (1) NV is established at a level of trade which constitutes a more advanced stage of distribution than the level of trade of the CEP; and (2) the data available do not provide an appropriate basis to determine a level-of-trade adjustment. In this investigation, we made a level of trade adjustment to NV in accordance with section 773(a)(7)(A) of the Act.

Therefore, we have not made a CEP offset.

Date of Sale

For U.S. sales made pursuant to the terms of two long-term contracts, Negromex has reported the contract date as the date of sale for all sales made under these contracts. Both contracts are year-long contracts that establish a minimum annual quantity of merchandise that is required to be purchased. Negromex reported that amounts of merchandise in addition to the minimum requirement could be purchased upon the agreement of both parties. Prices for the minimum annual quantity are fixed under the contracts and are based upon a mathematical formula that incorporates published monthly monomer prices and prices of butadiene and styrene—the major inputs of ESBR.

Pursuant to 19 CFR 351.401(i), the date of sale is normally the date of invoice unless satisfactory evidence is presented that the material terms of sale, price and quantity, are established on some other date. *See also Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Taiwan,* 61 FR 14067 (March 29, 1996). The Department has determined that, for a long-term contract, the price term is fixed if it is established by a published source outside of the control of either party to the contract, such that there is nothing more that the parties need to negotiate concerning the price of the goods sold. *See Final Determination of Sales of Less Than Fair Value: Brass Sheet and Strip From France,* 52 FR 812, 814 (January 9, 1987). In addition, the Department has decided that, for a long-term contract with a minimum quantity requirement, the date of the contract is the date of sale as to the minimum quantity specified in the contract. However, if the customer has not yet agreed to purchase any quantities above the minimum, then, for any amount sold in excess of the minimum, the Department will use the date of invoice as the date of sale. *See Titanium Sponge From Japan; Final Results of Antidumping Duty Administrative Review and Tentative Determination To Revoke in Part*, 54 FR 13403, 13404 (April 3, 1989); *see also Toho Titanium Co., Ltd.* v. *U.S.*, 743 F. Supp. 888, 890–91 (CIT 1990).

Under the long-term contracts in this investigation, the price term is fixed on the contract date, based on a set formula of published monthly prices for major inputs which are outside the control of either party to the contract. A minimum quantity requirement is also fixed on the contract date, but the parties made no agreement to purchase quantities greater than the minimum. Given these facts and the Department's practice, for Negromex's long-term contracts in the U.S. market we have used the contract date as the date of sale for sales equaling the minimum quantity agreed to in the contract. For any quantity sold above the minimum under these contracts, we used the reported invoice date as the date of sale.

Addition of Product Characteristics by Negromex

Negromex reported five additional product characteristics (ash content, free soap content, styrene content, mooney viscosity, and vulcanization time tolerance) not specified in the Department's questionnaire as matching criteria. Negromex alleged that these characteristics are commercially relevant because its customers have differing requirements for these characteristics and Negromex records the levels of these five characteristics for the ESBR it produces. Negromex referenced *Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy,* 61 FR 30326 (June 14, 1996) (Pasta from Italy) to support its addition of these product characteristics as matching criteria.

The Department has not accepted these additional product characteristics as matching criteria for purposes of the preliminary determination. The product characteristics included in our questionnaire define standard grades of ESBR according to the generally accepted set of product specifications issued by the International Institute of Synthetic Rubber Producers. These characteristics sufficiently define the product for matching purposes and Negromex has not provided adequate information on the record to establish that their additional product characteristics would result in more appropriate product matches. Moreover, in *Pasta from Italy,* we accepted the addition of wheat quality as a product matching criterion because we found that the level of wheat quality materially affected pasta input costs and, ultimately, pasta prices. *See Pasta from Italy* at 30346. In this investigation, Negromex's cost information on the record does not provide evidence of any difference in ESBR production costs relating to any of the additional five physical characteristics. Therefore, we preliminarily determine that ESBR is sufficiently defined for matching purposes by the ten criteria included in the questionnaire.

Constructed Export Price

We used CEP methodology for all sales by Negromex, in accordance with section 772(b) of the Act, because sales to the first unaffiliated purchaser took place after importation into the United States.

We calculated CEP based on the packed, FOB Brownsville, Texas warehouse starting price to the first unaffiliated purchaser in the United States. In accordance with section 772(c)(1)(B) of the Act, we added an amount for uncollected import duties in Mexico. We made deductions from the starting price, where appropriate, for foreign inland freight, transport and storage insurance, foreign brokerage and handling, U.S. brokerage and handling (including U.S. Customs Service processing fees), and U.S. warehousing expenses, pursuant to section 772(c)(2)(A) of the Act.

We made additional deductions from the starting price, in accordance with section 772(d)(1) of the Act, for selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit costs and technical service expenses), indirect selling expenses, and inventory carrying costs. In those instances where Negromex did not report payment dates, we calculated credit expenses using the date of the preliminary determination as the payment date. Additionally, in the instance where Negromex did not report a shipment date, we computed the average number of days between shipment and payment on Negromex's U.S. sales and assigned the shipment date for that sale to be the date of the average number of credit days prior to the preliminary determination. Pursuant to section 772(d)(3) of the Act, the starting price was further reduced 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 Negromex and GIRSA on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

Normal Value

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, we compared Negromex's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because Negromex's aggregate volume of 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, we determined that the home market was viable for Negromex.

Based on the information contained in the cost allegation submitted by the petitioners, the Department found reasonable grounds to believe or suspect that Negromex made sales in the home market at prices below their COPs, in accordance with section 773(b)(1) of the Act. As a result, the Department initiated an investigation to determine whether Negromex made home market sales at prices below their COPs during the POI, within the meaning of section 773(b) of the Act. *See* Memorandum from the Team to Louis Apple, Director, Office 5, dated August 21, 1998. Before making any fair value comparisons, we conducted the COP analysis described below.

We calculated the COP based on the sum of Negromex's cost of materials and fabrication for the foreign like product, plus amounts for home market SG&A and financial expenses and packing costs, in accordance with section 773(b)(3) of the Act. In addition, we adjusted Negromex's G&A expense ratio and finance expense ratio calculations as set out in the Preliminary Determination Cost Calculation Memo from Sunkyu Kim to the File, dated October 28, 1998.

We compared Negromex's weighted-average COP figures to home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether sales had been made at prices below their COPs. On a product-specific basis, we compared the COP to home market price, less any applicable movement charges, discounts, direct selling expenses and packing expenses.

In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made: (1) In substantial quantities within an extended period of time; and (2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade, pursuant to section 773(b)(1) of the Act.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of Negromex's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of Negromex's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product. For those U.S. sales of ESBR for which there were no comparable home market sales in the ordinary course of trade, we compared the CEP to CV in accordance with section 773(a)(4) of the Act.

We found that, for certain models of ESBR, more than 20 percent of Negromex's home market sales within an extended period of time were at prices less than COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We, therefore, disregarded the below-cost sales and used the remaining above-cost sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Negromex's cost of materials, fabrication, SG&A expenses, profit, and U.S. packing costs. For Negromex, 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 Negromex in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

We calculated NV for Negromex as noted in the ''Price to Price Comparisons'' and ''Price to CV Comparisons'' sections of this notice, below.

Price to Price Comparisons

We calculated NV based on packed, delivered prices to unaffiliated home market customers. We made deductions from the starting price, where appropriate, for price correction and customer pickup billing adjustments, volume rebates, and export rebates. We also made deductions, where appropriate, for foreign inland freight, warehousing, and foreign inland insurance expenses, pursuant to section 773(a)(6)(B) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses, warranty expenses, and technical service expenses. In those instances where Negromex did not report payment dates, we calculated credit expenses using the date of the preliminary determination as the payment date. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6) (A) and (B) of the Act.

To the extent practicable, we based NV on sales at the same level of trade as the CEP sales. In cases where NV was calculated at a different LOT, we made an adjustment, pursuant to section 773(a)(7) of the Act. This adjustment is discussed further in the Level of Trade section, above.

Price to CV Comparisons

For price to CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. In addition, we deducted from CV the weighted-average home market direct selling expenses.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) of the Act directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method, *see Policy Bulletin 96–1: Currency Conversions* (61 FR 9434, March 8, 1996).) Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the Mexican Peso did not undergo a sustained movement.

Verification

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the constructed export price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average margin percentage
Industrias Negromex, S.A. de C.V.	29.57
All Others	29.57

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than February 5, 1999, and rebuttal briefs no later than February 12, 1999. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on February 16, 1999, time and room to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is issued and published pursuant to sections 773(d) and 777(i) of the Act.

Dated: October 28, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–29553 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–830]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Joanna Gabryszewski, Rebecca Trainor, or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0780, (202) 482–0666 or (202) 482–3020, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce (''the Department'') regulations are to the regulations at 19 CFR Part 351, 62 FR 27296 (May 19, 1997).

Preliminary Determination

We preliminarily determine that stainless steel plate in coils (''SSPC'') from Taiwan are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

On April 20, 1998, the Department initiated antidumping duty investigations of imports of stainless steel plate in coils from Belgium, Canada, Italy, South Africa, South Korea, and Taiwan (*Notice of Initiation of Antidumping Investigations: Stainless Steel Plate in Coils From Belgium, Canada, Italy, South Africa, South Korea and Taiwan* (63 FR 20580, April 27, 1998)). Since the initiation of this investigation the following events have occurred:

The Department set aside a period for all interested parties to raise issues regarding product coverage. On May 8, 1998, Armco, Inc.; J&L Specialty Steel, Inc.; Lukens, Inc.; North American Stainless; the United Steelworkers of America, AFL–CIO/CLC; the Butler Armco Independent Union; and the Zanesville Armco Independent Organization, Inc. (''petitioners'') submitted comments stating that, while they believed the scope of the investigations was accurate, they wished to clarify certain issues concerning product coverage. The Department has determined that the parties' comments do not warrant a change in the scope language.

During the month of May 1998, the Department requested information from the American Institute in Taiwan (AIT) to identify producers/exporters of the subject merchandise. The AIT identified seven companies in Taiwan as exporters of subject merchandise. Three companies, Chang Mien Industries Co., Ltd., Tang Eng Iron Works Co., Ltd., and Chia Far Industrial Factory Co., Ltd., informed the Department that they did not export the subject merchandise to the United States during the POI. In May 1998, the Department also requested and received comments from petitioners and potential respondents in these investigations regarding the model matching criteria.

On May 15, 1998, the United States International Trade Commission (''ITC'') notified the Department of its affirmative preliminary injury determination in this case.

On May 27, 1998, the Department issued antidumping duty questionnaires to Yieh United Steel Corporation (''YUSCO''), Chien Shing Stainless Steel Co., Ltd. (''Chien Shing''), Ta Chen Stainless Steel Pipe, Ltd. (''Ta Chen''), and Tung Mung Development Co. Ltd. (''Tung Mung'').