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 Brazilian Real 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we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.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 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
Petroflex Industria e Comercio S.A.	61.71
All Others	61.71

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, 1998, and rebuttal briefs no later than February 12, 1998. 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, 1998, 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 733(d) and 777(i) of the Act.

Dated: October 28, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–29551 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–833]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Emulsion Styrene-Butadiene Rubber From the Republic of Korea

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

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Sunkyu Kim or James Nunno, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2613 or (202) 482–0783, 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 (April 1, 1998).

Preliminary Determination

We preliminarily determine that emulsion styrene-butadiene rubber (ESBR) from the Republic of Korea 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 margins of sales at LTFV are 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), ''*Notice of Initiation*''), the following events have occurred:

On May 8, 1998, the Department obtained a request from Hyundai Petrochemical Co., Ltd. (''Hyundai'') to be excluded from participation as a mandatory respondent in this investigation. On May 12, 1998, the petitioner submitted a letter to the Department opposing Hyundai's exclusion from this proceeding. On May 13, 1998, the Department notified Hyundai that it was selected as a mandatory respondent. In August 1998, Hyundai submitted a letter stating that it is unable to participate in this investigation, and is not responding to our questionnaires.

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).

On May 21, 1998, the Department of Commerce (the Department) issued the antidumping duty questionnaire to Kumho and Hyundai, the only two producers, and/or exporters of the subject merchandise to the United States identified in the petition. In June of 1998 the Department received Kumho's response to Section A of the questionnaire. Kumho submitted its response to Sections B and C of the questionnaire in July of 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, pursuant to section 773(b) of the Act, the petitioners submitted a timely allegation, that Kumho had made sales in the home market below the cost of production (COP). Our analysis of that allegation indicated that there were reasonable grounds to believe or suspect that Kumho sold ESBR in the home market at prices at less than the COP. Accordingly, on August 21, 1998, we initiated a COP investigation with respect to Kumho pursuant to section 773(b) of the Act (*see* Memorandum from Team to Louis Apple, Director, Office 5, dated August 21, 1998).

We issued supplemental questionnaires for Sections A, B, and C to Kumho in August 1998 and received responses to these supplemental questionnaires, along with revised U.S. and home market sales listings, in September 1998.

We received Kumho's response to Section D of the questionnaire in September 1998. We issued a supplemental questionnaire for Section D on October 13, 1998, but the response to the supplemental questionnaire was not received in time to be considered for purposes of the preliminary determination. We will consider it, however, for the final determination.

On September 24, 1998, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of ESBR from Korea. We requested shipment data from Kumho on September 28, 1998, and received this information on October 13, 1998. The critical circumstances analysis for the preliminary determination is discussed below under ''Critical Circumstances.''

Postponement of Final Determination and Extension of Provisional Measures

On October 21, 1998, Kumho 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. In addition, Kumho 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) Kumho accounts for a significant proportion of exports of the subject merchandise; (3) no compelling reasons for denial exist; and (4) Kumho 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.

Facts Available

Section 776(a)(2) of the Act provides that, if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsections 782(c)(1) and (e), use facts otherwise available in reaching the applicable determination. Because Hyundai failed to respond to the Department's questionnaire and because that failure is not overcome by the application of subsections (c)(1) and (e) of section 782, we must use facts otherwise available to calculate the dumping margins for this company.

Section 776(b) of the Act provides that adverse inferences may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See also* Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 316, 103d Cong., 2d Sess. 870 (1994) (SAA). Hyundai's decision not to reply to the Department's antidumping questionnaire demonstrates that it has failed to act to the best of its ability to comply with a request for information under section 776 of the Act. Thus, the Department has determined that, in selecting among the facts otherwise available, an adverse inference is warranted.

Consistent with Department practice, as adverse facts available, the Department is assigning to Hyundai the higher of: (1) The highest margin stated in the petition; or (2) the highest margin calculated for any respondent in this investigation. In this case, this margin is 118.88 percent, which is the highest margin alleged in the petition for any Korean producer (*see Initiation Checklist* and the *Notice of Initiation* for a discussion of the margin calculations in the petition).

Section 776(b) states that an adverse inference may include reliance on information derived from the petition or any other information placed on the record. *See* also SAA at 829–831. Section 776(c) provides that, when the Department relies on secondary information (*e.g.*, the petition) as the facts otherwise available, it must, to the extent practicable, corroborate that

information from independent sources that are reasonably at its disposal. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose (*e.g.*, import statistics, call reports, and data from business contacts). *See Notice of Initiation* and April 21, 1998, ''Office of Antidumping Investigations Initiation Checklist'' (''*Initiation Checklist*'').

For purposes of the preliminary determination, we were only able to reexamine part of the information in the petition. We reexamined the export price data provided in the petition in light of information obtained during the investigation and, to the extent that it could be corroborated, found that it continues to be of probative value. However, the Department was provided no other useful information by the respondents or other interested parties, and is aware of no other independent sources of information, that would enable it to further corroborate the remaining components of the margin calculation in the petition. *See* the October 27, 1998, Memorandum to Louis Apple on *The Facts Available Rate and Corroboration of Secondary Information: Preliminary Determination of Emulsion Styrene-Butadiene Rubber from the Republic of Korea.* We note that the SAA at 870 specifically states that, where ''corroboration may not be practicable in a given circumstance,'' the Department may nevertheless apply an adverse inference.

Fair Value Comparisons

To determine whether sales of ESBR from Korea to the United States were made at less than fair value, we compared the export price (EP) to the Normal Value (NV), as described in the ''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 EPs for comparison to weighted-average NVs.

On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *CEMEX* v. *United States*, 1998 WL 3626 (Fed Cir.). 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

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 constructed export price (CEP) transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP, the LOT is also the level of the starting-price sale, usually the price of the exporter to the importer. For CEP transactions, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than EP or CEP, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the home market sales are at a different LOT than sales made to the United States, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales at different levels of trade in the home market, 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).

With respect to home market sales, Kumho reported two customer categories (*i.e.*, end users and distributors) and two channels of distribution corresponding to each customer category. For its sales to the United States, it also reported two customer categories (*i.e.*, end users and distributors) and two channels of distribution corresponding to each customer category. Kumho reported only EP sales in the U.S. market, and claimed that the selling functions that it performs in connection with its home market and U.S. sales do not vary by customer category or by distribution channel. In addition, Kumho considers all home market and U.S. sales to be at the same level of trade.

Based on our analysis of the selling functions in the home market, we found the selling functions to end users to be similar to the selling functions to distributors. In addition, we noted that the two U.S. channels of distribution did not differ with respect to selling activities. Similar services, such as sales administration, billing, warranties, and freight & delivery arrangement, where applicable, were offered to all or some portion of customers in each channel. Furthermore, we noted that EP sales involved basically the same selling functions associated with the home market sales. Therefore, based upon this information, we determined that the level of trade for all EP sales is the same as that of the home market sales and to consider them as constituting the same LOT in the two markets. Accordingly, all comparisons are at the same LOT and an adjustment pursuant to section 773(a)(7)(A) of the Act is not warranted.

Export Price

In accordance with sections 772(a) and (c) of the Act, we calculated EP for all of Kumho's sales, since the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record.

We calculated EP based on the packed delivered price to unaffiliated

purchasers in the United States. In accordance with section 772(c)(1)(B) of the Act, we added an amount for uncollected import duties in Korea. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign domestic inland freight, foreign brokerage and handling, international freight, and marine insurance.

Affiliated-Party Transactions and Arm's-Length Test

Kumho reported that it made sales in the home market to affiliated end users. Sales to affiliated customers in the home market not made at arm's-length prices (if any) were excluded from our analysis because we considered them to be outside the ordinary course of trade. *See* 19 CFR 351.102 (1998). To test whether these sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. *See* 19 CFR 351.403(c) (1998). In instances where no price ratio could be constructed for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our LTFV analysis. *See Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina* (58 FR 37062, 37077 (July 9, 1993)). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar model.

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 Kumho'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 Kumho'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 Kumho.

Based on the information contained in the cost allegation submitted by the petitioners, the Department found reasonable grounds to believe or suspect that Kumho 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 Kumho 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 Kumho's cost of materials and fabrication for the foreign like product, plus amounts for home market SG&A expenses, financial expenses, and packing costs, in accordance with section 773(b)(3) of the Act. In addition, we made the following adjustments to Kumho's reported COP as follows: (1) we recalculated Kumho's interest expense factor on a consolidated basis, and (2) we adjusted the direct labor costs reported in the COP and CV databases to reflect Kumho's weighted-average direct labor costs (*see* Memorandum to the File from Stan Bowen, dated October 28, 1998).

We compared Kumho'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, direct and indirect 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 Kumho'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 Kumho'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.

We found that, for certain models of ESBR, more than 20 percent of Kumho'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. 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 EP to CV, in accordance with section 773(a)(4) of the Act.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Kumho's cost of materials, fabrication, 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 Kumho in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in Korea. As noted above, we recalculated Kumho's interest expense factor on a consolidated basis, and we adjusted the direct labor costs reported in the COP and CV databases to reconcile with amounts reported in the Section D response.

We calculated NV for Kumho 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, FOB or delivered prices to home market unaffiliated customers and prices to affiliated customers that we determined to be at arm's length. We made deductions, where appropriate, for movement expenses consistent with section 773(a)(6)(B) of the Act; these included inland freight and warehousing expenses. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale (COS) in

accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made COS adjustments for imputed credit expenses, bank charges and commissions. We made no adjustment for imputed credit expenses related to the pre-payment of value-added taxes (VAT), in accordance with our long-standing practice. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Sulfur Dyes, Including Sulfur Vat Dyes, from the United Kingdom,* 58 FR 3253 (Jan. 8, 1993), *Notice of Final Determination of Sales at Not Less Than Fair Value: Stainless Steel Bar from Italy,* 59 FR 66921 (Dec. 28, 1994), *Ferrosilicon from Brazil; Final Results of Antidumping Duty Administrative Review,* 61 FR 59407 (Nov. 22, 1996), and *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Steel Wire Rod From Italy,* 63 FR 10831 (March 5, 1998). In those instances where Kumho had not reported payment dates, we recalculated reported credit expenses using the date of the preliminary determination as the payment date. Because Kumho paid commissions to an unaffiliated agent on sales to the United States, in calculating NV, we offset these commissions using the weighted-average amount of indirect selling expenses, including inventory carrying costs, incurred on the home market sales for the comparison product, up to the amount of the U.S. commissions, in accordance with 19 CFR 351.410(e). 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.

Price-to-CV Comparisons

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. Where we compared CV to EP, we deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses (*i.e.,* credit expenses, bank charges, and commissions) in accordance with section 773(a)(6)(C)(iii) of the Act. We offset U.S. commissions using the weighted-average amount of indirect selling expenses and inventory carrying costs incurred on the home market sales for the comparison product, up to the amount of the U.S. commissions, in accordance with 19 CFR 351.410(e).

Currency Conversion

Our preliminary analysis of Federal Reserve dollar-won exchange rate data shows that the won declined rapidly at the end of 1997, losing over 40% of its value between the beginning of November and the end of December. The decline was, in both speed and magnitude, many times more severe than any change in the dollar-won exchange rate during the previous eight years. Had the won rebounded quickly enough to recover all or almost all of the initial loss, the Department might have been inclined to view the won's decline at the end of 1997 as nothing more than a sudden, but only momentary drop, despite the magnitude of that drop. As it was, however, there was no significant rebound. Therefore, we have preliminarily determined that the decline in the won at the end of 1997 was so precipitous and large that the dollar-won exchange rate cannot reasonably be viewed as having simply fluctuated during this time, i.e., as having experienced only a momentary drop in value. Therefore, in making this preliminary determination, the Department used daily rates exclusively for currency conversion purposes for home market sales matched to U.S. sales occurring between November 1 and December 31, 1997.

In the recently completed preliminary determination of *Mushrooms from Indonesia,* an issue was raised regarding the use of two averaging periods in the margin calculations to account for the effect of the devaluation of the Indonesian rupiah. *See, Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Preserved Mushrooms from Indonesia (Mushrooms from Indonesia)* 63 FR 41783 (August 5, 1998). The petitioners in *Mushrooms from Indonesia* argued that the Department should calculate the weighted-average export price for two averaging periods—January through June 1997 and July through December 1997—in order to avoid a distortion of the dumping margins caused by the rapid devaluation of the rupiah. The Department did not calculate two averaging periods in the preliminary determination in *Mushrooms from Indonesia,* but we are continuing to evaluate this issue. Although the issue of using two different averaging periods has not been raised in the instant investigation, the Korean won experienced a precipitous drop in value during the POI. Therefore, in both this investigation and *Mushrooms from Indonesia,* we will continue to examine this issue for the final determinations. We invite the interested parties to comment on this issue.

Critical Circumstances

On September 24, 1998, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of ESBR from Korea. In accordance with 19 CFR 351.206(c)(2)(i), since this allegation was filed 20 days prior to the Department's preliminary determination, we must issue our preliminary critical circumstances determination not later than the preliminary determination.

Section 733(e)(1) of the Act provides that if a petitioner alleges critical circumstances, the Department will determine whether there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and

(B) There have been massive imports of the subject merchandise over a relatively short period.

To determine that there is a history of dumping of the subject merchandise, the Department normally considers evidence of an existing antidumping duty order on ESBR in the United States or elsewhere to be sufficient. The petitioner did not provide any information indicating a ''history of dumping'' of ESBR from Korea. Furthermore, we investigated the existence of antidumping duty orders on ESBR from Korea in the United States or elsewhere, and did not find any. We were also unable to find other information that would have indicated a ''history of dumping'' of ESBR.

In determining whether an importer knew or should have known that the exporter was selling subject merchandise at less than fair value and thereby causing material injury, the Department normally considers margins over 15 percent for CEP sales and 25 percent for EP sales to impute knowledge of dumping and of resultant material injury. In this investigation, Kumho does not have a margin over 25 percent for EP sales, and there are no CEP sales. Based on these facts, we determine that the first criterion for ascertaining whether critical circumstances exist is not satisfied. Therefore, we have not analyzed the shipment data for this company to examine whether imports of ESBR have been massive over a relatively short period. Thus, we preliminarily determine that there is no reasonable basis to believe or suspect that critical

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]

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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