Commerce, Herbert C. Hoover Building, Room 4832, 14th Street between Pennsylvania and Constitution Avenues, N.W., Washington, D.C. The meeting will begin in closed session at 9:45 a.m. The open session will begin at 12:00 p.m. and is scheduled to adjourn at 4:15 p.m. The Subcommittee provides advice on matters pertinent to policies regarding commercial encryption products.

Closed Session: 9:45 a.m.–12:00 p.m.

1. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

Open Session: 12:00 p.m.–4:15 p.m.

2. Opening remarks by the Acting Chairman.
3. Presentation of papers or comments by the public.
4. Update on Bureau of Export Administration initiatives.
5. Issue briefings.
6. Briefings by working groups.
7. Open discussion.

A Notice of Determination to close meetings, or portions of meetings, of the Subcommittee to the public on the basis of 5 U.S.C. 522(c)(1) was approved May 7, 1998, in accordance with the Federal Advisory Committee Act. A copy of the Notice of Determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. For more information, contact Ms. Lee Ann Carpenter on (202) 482–2583.

Dated: October 30, 1998.

Iain S. Baird,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 98–29555 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–008]

Color Television Receivers from the Republic of Korea: Rescission of Antidumping Duty Administrative Review

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

ACTION: Notice of rescission of antidumping duty administrative review.

SUMMARY: On May 29, 1998, the Department of Commerce initiated an administrative review of the antidumping duty order on color television receivers from the Republic of Korea for three manufacturers/exporters; Daewoo Electronics Co., Ltd., LG Electronics Inc., and Samsung Electronics Co., Ltd. This review was requested by the International Brotherhood of Electrical Workers and the International Union of Electronic, Electrical, Salaried, Machine & Furniture Workers, AFL–CIO (collectively the petitioners), and covered the period April 1, 1997, through March 31, 1998. The Department of Commerce is rescinding the review after receiving a withdrawal of its request for review from the petitioners.

EFFECTIVE DATE: November 4, 1998.

FOR FURTHER INFORMATION CONTACT: Wendy Frankel or Mark Manning, Office of AD/CVD Enforcement, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–5849 and (202) 482–3936, respectively.

SUPPLEMENTARY INFORMATION:

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's regulations refer to the regulations codified at 19 CFR Part 351 (1998).

Background

On April 30, 1998, the International Brotherhood of Electrical Workers and the International Union of Electronic, Electrical, Salaried, Machine & Furniture Workers, AFL–CIO (''the Unions''), requested that the Department of Commerce (''the Department'') conduct an administrative review of color television receivers from the Republic of Korea (''Korea'') for the period April 1, 1997 through March 31, 1998. No other interested party requested that the Department conduct an administrative review.

On May 29, 1998, the Department published in the **Federal Register** (63 FR 29370) a notice of initiation of administrative review with respect to three Korean manufacturers/exporters of the subject merchandise; Daewoo Electronics Co., Ltd., LG Electronics Inc., and Samsung Electronics Co., Ltd. On October 16, 1998, the Unions filed a letter with the Department requesting withdrawal of its request for the Department to conduct an administrative review. Ordinarily, parties have 90 days from the publication of the notice of initiation of review in which to withdraw a request for review. See 19 CFR 351.213(d). We did not receive petitioner's withdrawal request until October 16, 1998, after the 90-day period had elapsed. Given that the review has not progressed substantially and there would be no undue burden on the parties or the Department, the Department has determined that it would be reasonable to grant the withdrawal at this time. Therefore, in accordance with section 351.213(d) of the Department's regulations, the Department is rescinding this administrative review.

This notice is in accordance with section 751 of the Act and section 351.213(d) of the Department's regulations.

Dated: October 27, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–29549 Filed 11–3–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–827]

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

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, NW, Washington, DC 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 to the

regulations at 19 CFR Part 351, 62 FR 27296 (May 19, 1997).

Preliminary D etermination

We preliminarily determine that emulsion styrene-butadiene rubber (ESBR) from Brazil 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.

Case History

Since the initiation of this investigation (*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 No. 731–TA–794–796).

In May 1998, the Department obtained information from the U.S. Embassy in Brazil identifying Petroflex Industria e Comercio S.A. (Petroflex) 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 Petroflex in May 1998.

On May 22, 1998, Petroflex requested that it be permitted to use calendar year 1997 (*i.e.,* its fiscal year) as its cost calculation period rather than the period of investigation (*i.e.,* April 1, 1997, through March 31, 1998). We granted Petroflex's request on May 26, 1998. We note, however, that Petroflex subsequently submitted cost information for the period of investigation in its Section D questionnaire response. Also, on May 26, 1998, Petroflex requested that the Department not require Petroflex to report resales of ESBR made by its affiliated customers in Brazil because such sales represent less than five percent of Petroflex's total sales in the home market. On May 27, 1998, pursuant to 19 CFR 351.403(d), the Department granted Petroflex's request.

In June 1998, the Department received a response to Section A of the questionnaire from Petroflex. Petroflex 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 Petroflex had made sales in the home market at less than the cost of production (COP). Our analysis of the allegation indicated that there were reasonable grounds to believe or suspect that Petroflex sold ESBR in the home market at less than the COP. Accordingly, we initiated a COP investigation with respect to Petroflex pursuant to section 773(b) of the Act (*see* Memorandum from Team to Louis Apple, Office Director, dated August 21, 1998).

We issued supplemental questionnaires for Sections A, B, and C to Petroflex in August 1998 and received responses to these questionnaires along with revised U.S. and home market sales listings in August and September 1998. We received Petroflex's response to Section D of the questionnaire in September 1998. We issued a supplemental questionnaire for Section D in October 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 purposes of the final determination.

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on October 13, 1998, Petroflex requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the publication of this notice in the **Federal Register**. On October 16, 1998, Petroflex amended its request to include a request to extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because: (1) Our preliminary determination is affirmative; (2) Petroflex accounts for a significant proportion of exports of the subject merchandise; (3) no compelling reasons for denial exist; and (4) Petroflex has requested an extension of provisional measures, we are granting the respondent's 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 Brazil to the United States were made at less than fair value, we compared the export price (EP) or constructed export price (CEP) to the Normal Value (NV), as described in the ''Export Price and 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 EPs and CEPs 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, 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 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, 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 level of trade than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. 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 an 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).

Petroflex reported two customer categories (*i.e.,* end users and distributors) and two channels of distribution corresponding to each customer category for its home market sales. In its response, Petroflex claims that its sales to the end users are at a different LOT than its sales to the distributors, arguing that it provides significantly different selling services to its end-user customers than its distributors. In the U.S. market, Petroflex reported both EP and CEP sales. For EP sales, Petroflex reported one channel of distribution and one customer category (*i.e.,* direct sales to unaffiliated end users) and claims that sales to this customer category are at the same level of trade as its sales to end users in the home market. For CEP sales, Petroflex reported one channel of distribution and one customer category (*i.e.,* sales to small end-users through its U.S. affiliate). Petroflex claims that these sales constitute a separate level of trade from its EP sales and the same level of trade as its home market sales to distributors.

In determining whether separate levels of trade actually existed in the home market, we examined whether Petroflex's sales involved different marketing stages (or their equivalent) based on the channel of distribution, customer categories and selling functions. As noted above, Petroflex made sales to two different customer categories (*i.e.,* end users and distributors). With respect to selling activities, Petroflex identified the following selling services it provides to its end users: (1) freight and delivery; (2) pre-and post-sale technical services; (3) warranty services; and (4) market research. For sales to distributors, Petroflex stated that it does not perform any of the services it performs for its sales to end users except for post-sale technical services. With respect to technical services, however, Petroflex further stated that such services are provided infrequently to distributors, whereas they are provided frequently to end users. Based upon this information, we have determined that Petroflex's sales to end users differ significantly from its sales to distributors with respect to selling activities and, therefore, constitute a different level of trade than its sales to distributors.

In analyzing Petroflex's selling activities for its EP sales (*i.e.,* sales to end users), we noted that the sales involved basically the same selling functions associated with the home market sales to end users described above. Therefore, we determine that Petroflex's EP sales and its home market sales to end users are made at the same level of trade.

The CEP sales were based on sales made by Petroflex to its U.S. affiliate, which then sold the merchandise to unaffiliated purchasers in the United States. Based on our analysis, we find that the selling functions performed at the CEP level do not significantly differ from those performed in the home market for sales to distributors. Specifically, after making deductions pursuant to section 772(d) of the Act, we determined that there were two selling activities performed by Petroflex associated with its sales to its U.S. affiliate: (1) Freight; and (2) post-sale technical services, which, according to Petroflex, are offered infrequently. Based on this information, we determined that Petroflex's CEP sales and its home market sales to distributors are made at the same level of trade.

To the extent possible, we determined NV based on sales in the home market at the same LOT as the EP or CEP transactions. When we were unable to find sales of the foreign like product in the home market at the same LOT as the U.S. sale, we determined whether a LOT adjustment was warranted. To make that determination, we examined whether there was a pattern of consistent price differences between the two levels of trade in the home market by comparing, for each model sold at both levels, the average net price of sales made in the ordinary course of trade at the two

levels of trade. We examined whether average prices were higher at one of the levels of trade for a preponderance of the models, so as to demonstrate a pattern of consistent price differences. We also considered whether the average prices were higher at one of the levels of trade for a preponderance of sales, based on the quantities of each model sold, in making this determination. Based on our analysis, we did not find that there existed a pattern of consistent price differences between the two levels of trade in the home market. Therefore, we did not make level of trade adjustments in our calculation. Since there was no pattern of consistent price differences between sales at the different levels of trade, we also did not make a CEP offset adjustment to NV. *See* Calculation Memorandum from Case Analyst dated October 28, 1998, for further discussion.

Export Price and Constructed Export Price

Petroflex reported as EP transactions its sales of subject merchandise sold to unaffiliated U.S. customers prior to importation through its affiliated company, Nemotrade Corporation (Nemotrade). Petroflex reported as CEP transactions its sales of subject merchandise sold to Nemotrade for its own account. Nemotrade then resold the subject merchandise after importation to unaffiliated customers in the United States.

With respect to sales made through Nemotrade prior to importation, Petroflex claims that these sales are properly classified as EP sales because Nemotrade acted only as a sales-document processor and communication link to facilitate Petroflex's U.S. sales to unaffiliated customers. Specifically, Petroflex states the following: (1) Nemotrade does not take physical possession of the merchandise; (2) the merchandise is shipped directly from Petroflex to the customer; (3) Nemotrade does not have independent authority to establish prices; and (4) the essential terms of sales are set and approved by Petroflex in Brazil.

We examine several factors to determine whether sales made prior to importation through an affiliated sales agent to an unaffiliated customer in the United States are EP sales, such as: (1) Whether the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer; (2) whether the sales follow customary commercial channels between the parties involved; and (3) whether the function of the U.S. selling agent is limited to that of a ''processor of sales-related documentation'' and a ''communication link'' with the unrelated U.S. buyer. Where the factors indicate that the activities of the U.S. affiliate are ancillary to the sale (*e.g.*, arranging transportation or customs clearance), we treat the transactions as EP sales. Where the U.S. affiliate is substantially involved in the sales process (*e.g.*, negotiating prices), we treat the transactions as CEP sales.

Based on our review of the selling activities of Petroflex's U.S. affiliate, we preliminarily determine that EP is appropriate for Petroflex's sales made to the first unaffiliated customers in the United States through Nemotrade prior to importation. The customary commercial channel between Petroflex and its unaffiliated customers is that Petroflex ships the EP merchandise directly to the unaffiliated U.S. customers without having the merchandise enter into the inventory of the U.S. affiliate and that the U.S. affiliate's activities are limited to that of a ''processor of sales-related documentation'' and a ''communication link'' with the unaffiliated U.S. buyers. Information on the record reflects that Nemotrade does no more than relay to Petroflex purchase orders received from U.S. customers and does not solicit such orders or negotiate terms with the customers. Accordingly, for purposes of the preliminary determination, we are treating the sales in question as EP transactions. We will examine this issue further at verification.

We calculated EP, in accordance with section 772(a) of the Act, for those sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted, based on the facts of record. We based EP on the packed CIF or C&F price to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, ocean freight and marine insurance.

We calculated CEP, in accordance with subsections 772(b) of the Act, for those sales to the first unaffiliated purchaser that took place after importation into the United States. We based CEP on the packed FOB or delivered prices to unaffiliated purchasers in the United States. We made adjustments for price-billing errors, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, ocean freight, marine insurance, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland freight, and U.S. warehousing expenses. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit costs and warranty expenses), inventory carrying costs, and indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

Affiliated-Party Transactions and Arm's-Length Test

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. 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). 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 Petroflex'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 Petroflex'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 Petroflex.

Based on the information contained in the cost allegation submitted by the petitioners, the Department found reasonable grounds to believe or suspect that Petroflex 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 Petroflex 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 Petroflex's cost of materials and fabrication for the foreign like product, plus amounts for home market SG&A, financial expenses and packing costs, in accordance with section 773(b)(3) of the Act. Petroflex purchased a major input, butadiene, for ESBR from both unaffiliated and affiliated parties. At the time of this determination, no information was available on the affiliated party's cost to produce the input. Therefore, in accordance with section 773(f)(2) of the Act, we valued butadiene that Petroflex purchased from its affiliated producer by applying the higher of the transfer price or the market price of the input. We intend to consider the affiliate's cost of production in our analysis for the final determination. In addition, we adjusted Petroflex's G&A and financial expense ratio calculation using fiscal year, rather that POI data, as set out in the Cost Calculation Adjustment Memorandum from William Jones to Neal Halper, Acting Director, Office of Accounting, dated October 28, 1998.

We compared Petroflex'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 Petroflex'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 Petroflex'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 Petroflex'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 Petroflex's cost of materials, fabrication, SG&A expenses, profit, and U.S. packing costs. For Petroflex, 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 Petroflex 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 Petroflex 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 FOB or delivered prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's-length prices. We made adjustments for price billing errors, where appropriate. We made deductions, where appropriate, for foreign inland freight, pursuant to section 773 (a)(6)(B) of the Act. 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. 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 EP or CEP transactions. In cases where NV was calculated at a different LOT, we did not make any LOT adjustment, as 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. 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 in accordance with section 773(a)(6)(C)(iii) of the Act. Where we compared CV to CEP, 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 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]

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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