Producer/exporter	Margin (percentage)
All Others	44.93

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the final determination in this proceeding is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of TTR from France are materially injuring, or threatening material injury to, the U.S. industry.

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs within 50 days of the date of publication of this notice. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. *See* 19 CFR 351.309(d). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

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. If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing 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 date of 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. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c). Unless extended, the Department will make its final determination no later than 75 days after the date of this preliminary determination. However, as this date falls on a weekend, the due date will fall on the next business day, March 1, 2004.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: December 16, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 03–31478 Filed 12–19–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–863]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons From Japan

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

ACTION: Notice of preliminary determination of sales at less than fair value.

EFFECTIVE DATE: December 22, 2003.

FOR FURTHER INFORMATION CONTACT: Cheryl Werner at (202) 482–2667, or Paul Walker at (202) 482–0413; Office of AD/CVD Enforcement IX, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that wax and wax/resin thermal transfer ribbons (TTR) from Japan are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The preliminary margins assigned to Union Chemicar Company Limited (UC) and Dai Nippon Printing Company Limited (DNP) are based on adverse facts available (AFA). The estimated margin of sales at LTFV is shown in the ''Suspension of Liquidation'' section of this notice.

In addition, we preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of subject merchandise from UC and DNP, but not from all other Japanese manufacturers/exporters.

Interested parties are invited to comment on this preliminary determination. We will make our final determination not later than 75 days after the date of this preliminary determination.

Case History

This investigation was initiated on June 19, 2003.[1] *See Notice of Initiation of Antidumping Duty Investigation: Thermal Transfer Ribbons From France, Japan and the Republic of Korea,* 68 FR 38305 (June 27, 2003) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred.

On July 14, 2003, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from France, Japan, and Korea of certain wax and wax/resin thermal transfer ribbons. *See Certain Wax and Wax/Resin Thermal Transfer Ribbons From France, Japan, and Korea,* 68 FR 42759 (July 18, 2003) (*ITC Prelim*).

On July 14, 2003, counsel for Armor S.A. (Armor), respondent in the antidumping duty investigation of TTR from France, met with the Department to discuss product characteristics. On July 17, 2003, Armor submitted comments regarding product characteristics and the Department's upcoming tour of the Petitioner's TTR production facilities in New York. On July 21, 2003, the Department toured these facilities and met with the Petitioner to discuss product characteristics.

On August 4, 2003, August 6, 2003 and August 18, 2003, the Petitioner submitted comments regarding the model match criteria. On August 5, 2003 and August 6, 2003, Armor submitted comments regarding the model match criteria. Additional model match comments were submitted by other interested parties on this record, as follows: Illinois Tool Works Inc. and ITW Specialty Films Co., Ltd. (collectively, ITW), respondents in the antidumping duty investigation of TTR from the Republic of Korea, on July 21, 2003, and August 4, 2003; DNP, on August 5, 2003; and Brother

[1] The Petitioner in this investigation is International Imaging Materials, Inc. (IIMAK).

International Corporation, on August 5, 2003. On August 8, 2003, the Department issued its model match criteria via sections B and C of the questionnaire (refer to below). On August 28, 2003, the Department clarified its model match criteria. On September 4, 2003, the Petitioner submitted additional comments regarding model match criteria. On October 9, 2003, the Department met with the Petitioner's counsel to discuss its model match comments.

On July 28, 2003 and July 30, 2003, the Petitioner submitted comments regarding the scope of the investigation. On August 7, 2003, General Company Limited, an interested party, submitted comments regarding the scope of the investigation. On September 2, 2003, the Petitioner submitted a ''test'' description to the Department, for the purpose of determining whether a product should be classified as a wax, resin enhanced wax, or wax/resin ribbon. On September 9, 2003, Armor submitted comments on the Petitioner's September 2 test proposal. On September 11, 2003, the Department issued a clarification to the scope of this investigation. *See Memorandum from Edward C. Yang, Office Director to Joseph A. Spetrini, Deputy Assistant Secretary; Antidumping Investigation on Certain Wax and Wax/Resin Thermal Transfer Ribbon from France, Japan and Korea: Scope Clarification.* The Department removed the word ''pure'' from the section discussing the exclusion of resin TTR in the scope language.

On November 4, 2003, the Petitioner submitted a letter to the Department correcting a typographical error in the color specification of the scope, as written in the petition and initiation notice: ''−20>a*<35'' should read, ''−20<a*<35''.

On August 1, 2003, the Department issued section A of its questionnaire to UC and DNP. On August 18, 2003, UC informed the Department that it declined to respond to the questionnaire. On August 7, 2003, the Department, pursuant to DNP's request, extended its deadline for responding to section A of the questionnaire, to September 5. On September 5, 2003, the Department received a response to section A of its questionnaire. On September 15, 2003, the Department received a revised quantity and value chart, pursuant to the Department's September 11, 2003 scope ruling. On September 22, 2003, the Petitioner submitted comments on DNP's response to section A of the questionnaire.

On September 24, 2003, the Department issued its first supplemental section A questionnaire to DNP. On October 7, 2003, the Department extended the deadline for certain questions in the first supplemental section A questionnaire to October 8, 2003, and the remaining questions to October 10, 2003, at DNP's request. On October 8, 2003 and October 10, 2003, the Department received responses to the first supplemental section A questionnaire. On October 14, 2003, the Department requested DNP to respond to 28 questions from the first supplemental section A questionnaire it had failed to answer in full in its October 8, 2003 and October 10, 2003 responses. On October 17, 2003, the Department received a response to the 28 questions from the first supplemental section A questionnaire.

On September 26, 2003, the Department issued its second supplemental A questionnaire to DNP. On October 3, 2003, the Department received a response to the second supplemental A questionnaire. On October 7, 2003, the Department also requested that DNP provide a complete response to its September 26, 2003, second supplemental A questionnaire. On October 8, 2003, the Department received a response to its October 7, 2003 request.

On October 10, 2003, the Department issued its third supplemental A questionnaire to DNP. On October 15, 2003, the Department received a response to the third supplemental A questionnaire.

On August 8, 2003, the Department issued sections B through E of its questionnaire to UC and DNP. On August 14, 2003, the Department, pursuant to DNP's request, extended its deadline for responding to sections B through E of the questionnaire, to September 22, 2003. On September 17, 2003, the Department again extended the deadlines for sections B through E to September 23 for Section B, and September 25 for sections C and E, again at DNP's request. On September 23, 2003, the Department received a response to section B and on September 25, 2003, the Department received a response to sections C and E of the questionnaire. On October 3, 2003, the Petitioner submitted comments on DNP's response to section B of the questionnaire. On October 6, 2003, the Department rejected DNP's September 24, 2003 section B response and September 26, 2003 sections C and E responses in accordance with section 777(b)(1)(B) of the Act. On October 8, 2003, DNP resubmitted its responses to sections B, C, and E of the questionnaire. On October 10, 2003, the Petitioner submitted comments on DNP's response to section C of the questionnaire. On October 17, 2003, the Petitioner submitted comments on DNP's response to section E of the questionnaire.

On October 21, 2003, the Department issued its supplemental B questionnaire to DNP based on DNP's October 8, 2003 third country sales response. On October 23, 2003, the Department issued its supplemental C questionnaire to DNP. On November 3, 2003, the Department issued its supplemental E questionnaire to DNP.

On September 26, 2003, the Department requested a Section B response based on DNP's Japanese home market sales of merchandise under investigation. On October 6, 2003, the Department extended the deadline for filing market viability allegations, at the Petitioner's request. On October 10, 2003, DNP requested the Department rescind its request for a Section B response based on DNP's Japanese home market sales of merchandise under investigation. On October 14, 2003, the Department extended the deadline for DNP's Section B response based on its Japanese home market sales to October 23, 2003, at DNP's request. On October 20, 2003, the Petitioner submitted comments on DNP's home market viability. On October 21, DNP submitted comments on home market viability and again requested the Department rescind its request for a Section B response based on DNP's Japanese home market sales of merchandise under investigation. On October 23, 2003, the Department again extended the deadline for DNP's Section B response based on its Japanese home market sales to November 3, 2003, again at DNP's request.

On September 12, 2003, the Department issued its positions on Armor's cost reporting issues, which we released to DNP. *See Memorandum from Cheryl Werner, Case Analyst through James C. Doyle, Program Manager, to the File; Antidumping Duty Investigation of Certain Wax and Wax/Resin Thermal Transfer Ribbons (''TTR'') from Japan: Clarification of Cost Reporting,* dated September 29, 2003 (''*Cost Clarification Memorandum*''). In the *Cost Clarification Memorandum,* the Department stated that in the event of a sales below cost allegation for DNP's merchandise under investigation, DNP would be subject to the clarifications in reporting of cost information discussed in this letter. *Id.* On October 14, 2003, the Petitioner alleged that DNP's third country sales were made at prices below DNP's cost of production.

On November 3, 2003, DNP declined the opportunity to respond to the

supplemental questionnaires issued by the Department on October 21 and 23, 2003, and withdrew from the investigation. DNP requested that all business proprietary copies of its questionnaire responses be returned or destroyed. On November 17, 2003, the Department notified DNP that it had destroyed all business proprietary copies of its questionnaire responses. On November 17, 2003, the Department also requested all parties subject to the administrative protective order (''APO'') of this proceeding certify to the return or destruction of DNP's business proprietary information released under the Department's June 4, 2003, administrative protective order. On November 18, 19, and 20, the Department received such certifications from all parties subject to the Department's June 4, 2003, administrative protective order.

On October 3, 2003, the Petitioner made a timely request for a forty-day extension of the preliminary determination pursuant to section 733(c)(1)(A) of the Act. On October 21, 2003 we postponed the preliminary determination until no later than December 16, 2003. *See Wax and Wax/Resin Thermal Transfer Ribbons from France, Japan, and the Republic of Korea; Notice of Postponement of Preliminary Determinations in Antidumping Duty Investigations,* 68 FR 60085 (October 21, 2003).

On November 26, 2003, the Petitioner filed a formal critical circumstances allegation in accordance with 19 CFR 351.206(c)(2)(iii). On December 12, 2003, DNP filed company-specific import data and comments in response to the Petitioner's allegation of critical circumstances for imports of TTR from Japan. For a more detailed discussion, please see the ''Critical Circumstances'' section below.

On December 5, 2003, the Petitioner filed comments for the preliminary determination.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either: (1) A sample of exporters, producers, or types of products that is statistically valid, based on the information available at the time of selection; or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined.

We received quantity and value information from all seven [2] known producers of the subject merchandise from Japan. UC and DNP were the producers accounting for the largest volume of exports to the United States during the period of investigation (POI). Therefore, on July 31, 2003, we selected UC and DNP as the Respondents in the investigation of wax and wax/resin TTR from Japan. *See Memorandum from Edward C. Yang, Office Director to Richard O. Weible, Acting Deputy Assistant Secretary; Antidumping Investigation on Thermal Transfer Ribbon from Japan: Selection of Respondents.*

Period of Investigation

The POI is April 1, 2002, through March 31, 2003. This period corresponds to the four most recent fiscal quarters prior to the month of filing of the petition (*i.e.*, June 2003) involving imports from a market economy, and is in accordance with our regulations. *See* 19 CFR 351.204(b)(1).

Scope of Investigation

This investigation covers wax and wax/resin thermal transfer ribbons (TTR), in slit or unslit (''jumbo'') form originating from Japan with a total wax (natural or synthetic) content of all the image side layers, that transfer in whole or in part, of equal to or greater than 20 percent by weight and a wax content of the colorant layer of equal to or greater than 10 percent by weight, and a black color as defined by industry standards by the CIELAB (International Commission on Illumination) color specification such that L[ast]<35,–20<=a[ast]<35 and–40<b[ast]<31, and black and near-black TTR. TTR is typically used in printers generating alphanumeric and machine-readable characters, such as bar codes and facsimile machines.

The petition does not cover resin TTR, and finished thermal transfer ribbons with a width greater than 212 millimeters (mm), but not greater than 220 mm (or 8.35 to 8.66 inches) and a length of 230 meters (m) or less (*i.e.*, slit fax TTR, including cassetted TTR), and ribbons with a magnetic content of greater than or equal to 45 percent, by weight, in the colorant layer.The merchandise subject to this investigation may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) at heading 3702 and subheadings 3921.90.40.25, 9612.10.90.30, 3204.90, 3506.99, 3919.90, 3920.62, 3920.99 and 3926.90. The tariff classifications are provided for convenience and Customs and Border Protection (CBP) purposes; however, the written description of the scope of the investigation is dispositive.

On October 28, 2003, November 21, 2003, and December 5, 2003, the Petitioner submitted documents it claims suggest the respondents in the TTR investigations are attempting to circumvent a potential TTR antidumping order by slitting subject merchandise jumbo rolls in a third country. The Petitioner contends that the country of origin of slit TTR should be determined by the country of origin of the jumbo TTR roll from which it was slit, regardless of where the slitting occurred. The Petitioner argues that slitting subject merchandise jumbo TTR rolls does not involve a substantial transformation, and therefore, does not change the country of origin of slit TTR rolls.

On November 26, 2003, and December 12, 2003, Armor submitted comments regarding the Petitioner's allegation. Armor argues that the further manufacturing process does in fact substantially transform the jumbo TTR rolls, and, thus, does change the country of origin of the merchandise.

We have reviewed the Petitioner's and Armor's comments. However, as a determination of whether slitting jumbo TTR rolls constitutes a substantial transformation and therefore changes the country of origin of the merchandise, and as such a change may affect the scope of this investigation and future proceedings, it is necessary to provide interested parties the opportunity to comment on this issue. *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments. Comments are due within 14 days of the publication of this notice. Rebuttal comments must be filed within five days after the deadline for the submission of the initial country of origin comments. We remind parties that case and rebuttal briefs, whether commenting on this country of origin issue, or any other issue, must be limited to the facts already on the record in accordance with section 19 CFR 351.309 of the Department's regulations.

Facts Available

For the reasons discussed below, we determine that the use of AFA are appropriate for the preliminary determination with respect to UC and DNP.

[2] The seven producers are: Dynic Corporation (Dynic), Sony Chemicals Corporation (Sony), Ricoh Company Limited (Ricoh), General Company Limited (General), Fujicopian Company Limited (Fujicopian), UC and DNP.

A. Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the Department, fails to provide such information by the deadline or in the form or manner requested, significantly impedes a proceeding, or provides information which cannot be verified, the Department shall use facts otherwise available in reaching the applicable determination. As stated above, UC informed the Department at the outset that it would not participate in this investigation. DNP has informed the Department that it will no longer participate in this investigation and has requested that all of its responses be returned or destroyed. Since UC and DNP withheld information requested by the Department, the Department has no choice but to rely on the facts otherwise available in order to determine a margin for these parties, pursuant to section 776(a)(2) of the Act.

B. Application of Adverse Inferences for Facts Available

In applying facts otherwise available, section 776(b) of the Act provides that the Department may use an inference adverse to the interests of 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, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (August 30, 2002). Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316, at 870 (1994) (SAA). Furthermore, ''{a}ffirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.'' *See Antidumping Countervailing Duties: Final Rule*, 62 FR 27296, 27340 (May 19, 1997). In this case, UC has failed to cooperate to the best of its ability by not responding to the Department's antidumping questionnaires. DNP has failed to cooperate to the best of its ability by withdrawing its responses to the Department's antidumping questionnaires and declining any further participation in this investigation. Therefore, the Department has preliminarily determined that in selecting from among the facts otherwise available, an adverse inference is warranted. *See, e.g., Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan,* 65 FR 42985, 42986 (July 12, 2000) (the Department applied total AFA where respondent failed to respond to the antidumping questionnaires).

C. Selection and Corroboration of Information Used as Facts Available

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. *See also* 19 CFR 351.308(c); SAA at 829–831. In this case, because there is insufficient information on the record for the Department to calculate margins for the Respondents in this investigation, we are relying on information derived from the petition in applying AFA. We preliminarily assign to UC and DNP the highest margin from the proceeding, which is the highest margin alleged for Japan in the petition, 147.30 percent. *See Initiation Notice,* 68 FR at 38308.

When using facts otherwise available, section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition) in using facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. The Department's regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See* 19 CFR § 351.308(d); *see also* SAA at 870.

To assess the reliability of the petition margin for the purposes of this investigation, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis. *See Antidumping Investigations Initiation Checklist; Wax and Wax/Resin Thermal Transfer Ribbon From France, Japan, and South Korea,* pages 7 through 9 (June 25, 2003) (*Initiation Checklist*). In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the constructed export price (CEP) and normal value (NV) calculations on which the highest margin in the petition was based.

1. Corroboration of Constructed Export Price

To calculate constructed export price (CEP) the Petitioner obtained pricing information for certain wax and wax/resin products sold to unaffiliated parties in the United States, and comparable to the products sold in Japan. The Petitioner made certain adjustments to this selling price for specific expenses that would be incurred by foreign producers of the subject merchandise for sales made in the United States. Because the Petitioner was unable to obtain actual data for selling expenses incurred by respondents in the United States, the Petitioner obtained price quotes as a basis for its estimation of certain expenses, and, where appropriate, also based its estimates for such expenses on actual figures incurred in the course of its own selling activities. The Petitioner indicates this approach is a reasonable and appropriate way to calculate CEP because the selling process for TTR is uniform within the United States, and the selling activities performed by respondents' U.S. affiliates for their U.S. customers are largely the same as those performed by the Petitioner for its customers in the United States. Where known differences between the Petitioner's and respondents' operations exist, the Petitioner adjusted selling expenses accordingly to account for such differences.

With respect to selling expenses incurred in Japan, the Petitioner indicated there is no basis to believe that such expenses would differ for TTR destined for the United States versus merchandise sold in the home market. Therefore, according to the Petitioner, it is reasonable to consider such expenses to be equal for sales to the United States and in the home market.

As detailed in the *Initiation Checklist*, the petition contained documentation supporting the figures used in this CEP calculation, which was analyzed by the Department and revised by the Petitioner through answers to supplemental questions issued by the Department.

2. Corroboration of Normal Value

With respect to normal value (NV), the Petitioner relied on foreign market research to obtain price estimates for TTR sold in the home market. The

Petitioner obtained foreign market research relating to two grades of TTR sold in the Japanese market. This sales information is contemporaneous with the sales information used as the basis for CEP and represents sales of products that are either identical or similar to those products for which the Petitioner obtained U.S. sales information.

As detailed in the *Initiation Checklist,* the petition contained documentation supporting the figures used in this NV calculation, which was analyzed by the Department and revised by the Petitioner through answers to supplemental questions issued by the Department.

All Others Rate

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-averaged dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. This provision contemplates that we weight-average margins other than zero, *de minimis*, and facts available margins to establish that ''All Others'' rate. Where the data do not permit weight-averaging such rates, the SAA provides that we use other reasonable methods. *See* SAA at 873. The petition contained only information relating to U.S. sales by DNP, compared against home market sales prices and cost. Since DNP is the largest Japanese producer/exporter of subject merchandise, it is reasonable to use a margin based on its U.S. sales as the ''All Others'' rate. The estimated dumping margin for subject merchandise from Japan, based on comparisons of CEP and NV, range between 65.9 and 147.3 percent, in the *Initiation Notice.* Accordingly, we calculated a simple average of these two dumping margins in the *Initiation Notice,* and applied this margin of 106.60 percent as the ''All Others'' rate.

Critical Circumstances

On November 26, 2003, the Petitioner alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigation of TTR from Japan. In accordance with 19 CFR § 351.206(c)(2)(i), because the Petitioner submitted critical circumstances allegations exactly 20 days before the scheduled date of the preliminary determination, the Department must issue preliminary critical circumstances determinations not later than the date of the preliminary determination.

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if 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. Section 19 CFR 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 19 CFR § 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent during the ''relatively short period'' of time may be considered ''massive.''

Section 19 CFR § 351.206(i) of the Department's regulations defines ''relatively short period'' as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later. The regulations also provide, however, that if the Department finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.

Because we are not aware of any antidumping order in any country on TTR from Japan, we do not find that a reasonable basis exists to believe or suspect that there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise. Therefore, we must look to the second criterion for determining importer knowledge of dumping.

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that the exporter was selling the TTR at less than fair value, the Department's normal practice is to consider margins of 15 percent or more sufficient to impute knowledge of dumping for constructed export price (CEP) sales, and margins of 25 percent or more for export price (EP) sales. *See Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China (PRC Plate),* 62 FR 31972, 31978 (June 11, 1997). In the instant case, the mandatory respondents, UC and DNP did not respond to the Department's questionnaire and we have applied, as AFA, the highest of the dumping margins presented in the petition and corroborated by the Department. This is consistent with section 776 of the Act and with Department practice. *See Final Determination of Sales at Less Than Fair Value: Vector Supercomputers From Japan (Vector Supercomputers),* 62 FR 45623 (August 28, 1997). UC and DNP's assigned dumping margins of 147.30 percent are greater than 15 percent. Therefore, we have imputed knowledge of dumping to importers of subject merchandise from these companies.

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that there was likely to be material injury by reason of dumped imports, the Department normally will look to the preliminary injury determination of the ITC. If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that there was likely to be material injury by reason of dumped imports. In this case, the ITC has found that a reasonable indication of present material injury due to dumping exists for all identified countries. *See ITC Prelim.* As a result, the Department has determined that there is a reasonable basis to believe or suspect that importers knew or should have known that there was likely to be material injury by reason of dumped imports of subject merchandise from Japan.

In determining whether there are ''massive imports'' over a ''relatively short period,'' the Department normally compares the import volume of the subject merchandise for three months immediately preceding and following the filing of the petition. Imports normally will be considered massive when imports have increased by 15 percent or more during this ''relatively short period.''

On December 12, 2003, DNP filed company-specific import data and comments. However, these comments and information were submitted too late for consideration in this preliminary determination. Because we do not have verifiable data from the two uncooperative Japanese companies, the

Department must base its ''massive imports'' determination as to these companies on the facts available, pursuant to section 776(a) of the Act.[3] Because these companies failed to cooperate by not acting to the best of their ability to respond to the Department's questionnaires, we may make an adverse inference in selecting the facts available. Therefore, consistent with Department practice, we have adversely inferred, as facts available, that there were massive imports from UC and DNP over a relatively short period. *See Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails from Taiwan (Collated Roofing Nails From Taiwan),* 62 FR 51427 (October 1, 1997).

Based on our determination that there is a reasonable basis to believe or suspect that importers knew or should have known that exporters UC and DNP were selling TTR from Japan at less than fair value, that there was likely to be material injury by reason of such dumped imports, and that there have been massive imports of TTR from these producers over a relatively short period, we preliminarily determine that critical circumstances exist for imports from Japan of wax and wax/resin TTR produced by UC and DNP.

It is the Department's normal practice to conduct its critical circumstances analysis of companies in the ''all others'' group based on the experience of investigated companies. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey,* 62 FR 9737, 9741 (March 4, 1997) (*Rebars from Turkey*) (the Department found that critical circumstances existed for the majority of the companies investigated, and therefore concluded that critical circumstances also existed for companies covered by the ''all others'' rate). However, the Department does not automatically extend an affirmative critical circumstances determination to companies covered by the ''all others'' rate. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Japan,* 64 FR 30574 (June 8, 1999) (*Stainless Steel from Japan*). Instead, the Department considers the traditional critical circumstances criteria with respect to the companies covered by the ''all others'' rate. Consistent with *Stainless Steel from Japan,* the Department has, in this case, applied the traditional critical circumstances criteria to the ''all others'' category for the antidumping investigations of TTR from Japan.

First, in determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that the exporter was selling the TTR at less than fair value, we look to the ''all others'' rate, which is based, in the instant case, on facts available. The dumping margin for the ''all others'' category in the instant case, 106.60 percent, exceeds the 15 percent threshold necessary to impute knowledge of dumping. Second, based on the ITC's preliminary material injury determination, we also find that importers knew or should have known that there would be material injury from the dumped merchandise.

Finally, with respect to massive imports, we are unable to base our determination on our findings for the mandatory respondents, because our determinations for all of the respondents were based on facts available. We have not inferred, as facts available, that massive imports exist for ''all others'' because, unlike UC and DNP, the ''all others'' companies have not failed to cooperate in this investigation. Therefore, an adverse inference with respect to shipment levels by the ''all others'' companies is not appropriate. Instead, consistent with the approach taken in *Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan* (*Hot-Rolled Steel from Japan*), 64 FR 24239 (May 6, 1999) and *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand* (*Cold-Rolled Steel from Japan*) 65 FR 5220, 5227 (February 4, 2000), we examined U.S. Customs data on overall imports from Japan for the five months preceding and the five months following the filing of the petition in order to see if we could ascertain whether an increase in shipments of greater than 15 percent or more occurred within a relatively short period following the point at which importers had reason to believe that a proceeding was likely. However, information on the record indicates that these data cover numerous HTS categories that include merchandise other than subject merchandise. The U.S. Customs data also is reported in multiple units of measure. Therefore, we cannot rely on these data in determining whether there were massive imports for the ''all others'' category.[4]

Based on our determination that massive imports of TTR from the producers included in the ''all others'' category did not occur and, consequently, that the third criterion necessary for determining affirmative critical circumstances has not been met, we have preliminarily determined that critical circumstances do not exist for imports from Japan of TTR for companies in the ''all others'' category.

Suspension of Liquidation

For UC and DNP, as indicated above, we have made a preliminary affirmative critical circumstances finding. Therefore, in accordance with section 733(d)(2) of the Act, we are directing Customs to suspend liquidation of all entries of subject merchandise from UC or DNP that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication of this notice in the **Federal Register**. We are directing Customs to suspend liquidation of all entries of subject merchandise from companies other than UC or DNP that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing Customs to require a cash deposit or the posting of a bond equal to the dumping margin as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

The dumping margins are as follows:

Producer/exporter	Margin (percentage)
Union Chemicar Company Limited	147.30
Dai Nippon Printing Company Limited	147.30
All Others	106.60

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative

[3] Because the two respondents did not respond to the questionnaire, they are non-cooperating respondents and accordingly we did not request monthly shipment data from these companies.

[4] *See Preliminary Determinations of Critical Circumstances: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan and South Africa,* 65 FR 12509, 12511 (March 9, 2000) (where the Department determined that massive imports did not exist for imports from companies in the ''all others'' category because it could not rely on the U.S. Customs data). *See also Notice of Final Determinations of Sales at Less Than Fair Value: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan; and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan and the Republic of South Africa* 65 FR 25907, 25908 (May 4, 2000).

determination. If the final determination in this proceeding is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of TTR from Japan are materially injuring, or threaten material injury to, the U.S. industry.

Public Comments

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs within 50 days of the date of publication of this notice. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. *See* 19 CFR 351.309(d). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

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. If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing 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 date of 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. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c). The Department will make its final determination no later than 75 days after the date of publication of this preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: December 16, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 03–31479 Filed 12–19–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–853]

Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Wax and Wax/Resin Thermal Transfer Ribbons From the Republic of Korea

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

ACTION: Notice of preliminary determination of sales at not less than fair value.

EFFECTIVE DATE: December 22, 2003.

FOR FURTHER INFORMATION CONTACT: Fred Baker at (202) 482–2924, or Robert James at (202) 482–0649; AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that wax and wax/resin thermal transfer ribbons (TTR) from the Republic of Korea (Korea) are not being, nor are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Tariff Act).

Interested parties are invited to comment on this preliminary determination. Unless extended, we will make our final determination not later than 75 days after the date of this preliminary determination.

Case History

The Department initiated this investigation on June 19, 2003.[1] See Notice of Initiation of Antidumping Duty Investigation: Thermal Transfer Ribbons From France, Japan and the Republic of Korea, 68 FR 38305 (June 27, 2003) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred.

On July 14, 2003, the United States International Trade Commission (the Commission) preliminarily determined that ''there is a reasonable indication that an industry in the United States is materially injured by reason of imports from France, Japan, and Korea of certain wax and wax/resin thermal transfer ribbons.'' *See Certain Wax and Wax/Resin Thermal Transfer Ribbons From France, Japan, and Korea*, 68 FR 42759 (July 18, 2003).

On July 21, 2003, the Department toured the petitioner's production facilities in New York, and met with petitioner to discuss product characteristics. *See* Memorandum to the File dated July 30, 2003, on file in room B–099 of the Department of Commerce building.

On July 28, 2003, and July 30, 2003, petitioner submitted comments regarding the scope of the investigation. On August 7, 2003, General Company Limited, an interested party, also commented on the scope of the investigation. On September 2, 2003, petitioner submitted a ''test'' description to the Department, for the purpose of determining whether a product should be classified as a wax, resin enhanced wax, or wax/resin ribbon. On September 9, 2003, Armor submitted comments on petitioner's September 2, 2003 test proposal. On September 11, 2003, the Department issued a clarification to the scope of this investigation. *See* Memorandum from Edward C. Yang, Office Director to Joseph A. Spetrini, Deputy Assistant Secretary; Antidumping Investigation on Certain Wax and Wax/Resin Thermal Transfer Ribbon from France, Japan and Korea: Scope Clarification, on file in room B–099 of the Department of Commerce building. The Department removed the word ''pure'' from the section discussing the exclusion of resin TTR in the scope language.

On November 4, 2003, petitioner submitted a letter to the Department correcting a typographical error in the color specification of the scope, as written in the petition and initiation notice: ''−20>a*<35'' should read, ''−20<a*<35.''

On July 21, 2003, Illinois Tool Works, Inc. (ITW), the only known Korean producer/exporter of TTR to the United States, submitted comments about model match criteria. On July 30, 2003 the Department sent a letter to interested parties soliciting comments on model match criteria. On August 4, 2003, August 18, 2003, and September 4, 2003 petitioner submitted comments regarding the model match criteria. On August 4, 2003, ITW submitted additional comments regarding the model match criteria. Additional model match comments were submitted by other interested parties on this record, as follows: Armor, S.A., on August 5,

[1] The petitioner in this investigation is International Imaging Materials, Inc. (IIMAK).