to conduct administrative reviews of various antidumping and countervailing duty orders and findings with October anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: November 28, 2003.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2002), for administrative reviews of various antidumping and countervailing duty orders and findings with October anniversary dates.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than October 31, 2004.

	Period to be reviewed
Antidumping Duty Proceedings	
Brazil: Carbon and Certain Alloy Steel Wire Rod, A–351–832	4/15/02–9/30/03
Companhia Siderurgica Belgo Mineira	
Belgo Mineira Participacoes Industria e Comercio S.A.	
BMP Siderurgia S.A.	
Canada: Carbon and Certain Alloy Steel Wire Rod, A–122–840	4/10/02–9/30/03
Ivaco Inc.	
Mexico: Carbon and Certain Alloy Steel Wire Rod, A–201–830	4/10/02–9/30/03
Hylsa Puebla, S.A. de C.V.	
Hylsamex, S.A. de C.V.	
Siderurgica Lazaro Cardenas Las Truchas S.A. de C.V.	
Spain: Stainless Steel Wire Rod,[1] A–469–807	9/1/02–8/31/03
Roldan, S.A.	
The People's Republic of China: Helical Spring Lock Washers,[2] A–570–822	10/1/02–9/30/03
Hang Zhou Spring Washer Co., Ltd./(dba Zhejiang Wanxin Group Co., Ltd.)	
Trinidad and Tobago: Carbon and Certain Alloy Steel Wire Rod, A–274–804	4/10/02–9/30/03
Caribbean Ispat Limited	
Countervailing Duty Proceedings	
Brazil: Carbon and Certain Alloy Steel Wire Rod, C–351–833	8/30/02–12/31/02
Companhia Siderurgica Belgo Mineira	
Belgo Mineira Participacoes Industria e Comercio S.A.	
BMP Siderurgia S.A.	
Canada: Carbon and Certain Alloy Steel Wire Rod, C–122–841	2/8/02–12/31/02
Ispat Sidbec Inc.	
Suspension Agreements	
None.	

[1] Inadvertently omitted from previous initiation notice.

[2] If one of the above-named companies does not qualify for a separate rate, all other exporters of helical spring lock washers from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under § 351.211 or a determination under § 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: November 18, 2003.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Group II for Import Administration.

[FR Doc. 03–29720 Filed 11–26–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–884]

Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China

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

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

SUMMARY: We preliminarily determine that certain color television receivers

from the People's Republic of China are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended. 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 the People's Republic of China.

Interested parties are invited to comment on this preliminary determination. We will make our final determination not later than 135 days after the date of publication of this preliminary determination.

EFFECTIVE DATE: November 28, 2003.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Elizabeth Eastwood, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0656 or (202) 482–3874, respectively.

Preliminary Determination

We preliminarily determine that certain color television receivers (CTVs) from the People's Republic of China (PRC) 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 estimated margins of sales at LTFV are 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 CTVs from all exporters in the PRC. The critical circumstances analysis for the preliminary determination is discussed below under the section ''Critical Circumstances.''

Case History

Since the initiation of this investigation (*Notice of Initiation of Antidumping Duty Investigations: Certain Color Television Receivers From Malaysia and the People's Republic of China*, 68 FR 32013 (May 29, 2003)) (*Initiation Notice*), the following events have occurred: On June 16, 2003, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of certain color televisions from Malaysia and the People's Republic of China are materially injuring the United States industry. *See* ITC Investigation Nos. 731–TA–1034 and 1035 (*Certain Color Television Receivers from China and Malaysia*, 68 FR 38089 (June 26, 2003)).

Also on June 16, 2003, we issued an antidumping questionnaire to the Chinese Ministry of Commerce (MOFCOM) requesting that it forward the questionnaire to Chinese producers/exporters accounting for all known exports of subject merchandise from the PRC during the period of investigation (POI). The Department also sent courtesy copies of the antidumping questionnaire to the China Chamber of Commerce for Import & Export of Machinery & Electronic Products, to all companies identified in U.S. customs data as exporters of the subject merchandise during the POI with shipments in commercial quantities, and to any additional companies identified in the petition as exporters of CTVs. These companies included: Gain Star International Ltd. (Gain Star); Guangdong Stationery & Sporting Goods Import & Export Corporation (Guangdong Stationery); Haier Electric Appliances International Co. (Haier); Hisense Import and Export Co., Ltd. (Hisense); Konka Group Company, Ltd. (Konka); New Great Wall Digital Electronics Co.; Philips Consumer Electronics Co. of Suzhou Ltd. (Philips); Sichuan Changhong Electric Co., Ltd. (Changhong); Sanyo Sales & Marketing Corp.; Shanghai SVW DD and TT Electronic Enterprise Co., Ltd.; Star Light Electronics Co., Ltd. (Star Light); Supra Corporation (Supra); SVA Group Co., Ltd. (SVA); TCL Holding Company Ltd. (TCL); and Xiamen Overseas Chinese Electornic Co., Ltd. (XOCECO). The letters sent to MOFCOM and individual exporters provided deadlines for responses to the different sections of the questionnaire.

On June 18, 2003, XOCECO requested that high definition televisions (HDTVs) be excluded from the scope of this investigation. For further discussion, see the ''Scope Comments'' section of this notice, below.

On June 24, 2003, we issued a courtesy copy of the questionnaire to XS Cargo, an additional exporter of PRC CTVs to the United States.

Also on June 24, 2003, Guangdong Stationery informed the Department that it did not export subject merchandise to the United States during the POI. For further discussion, see the June 24, 2003, memorandum from Jill Pollack to the file entitled ''Placing Information on the Record in the Antidumping Duty Investigation on Color Television Receivers from the People's Republic of China (PRC).''

On June 25, 2003, XS Cargo informed the Department that it also did not export subject merchandise to the United States during the POI, but merely returned broken sets purchased in the United States. For further discussion, see the June 25, 2003, memorandum from Shawn Thompson to the file entitled ''Telephone Conversation with a Third Country Exporter in the Antidumping Duty Investigation of Certain Color Television Receivers from the People's Republic of China.''

On June 30, 2003, an additional PRC exporter of CTVs, Shenzhen Chaungwei-RGB Electronics Co., Ltd. (Skyworth), contacted the Department and requested that it be issued a copy of the questionnaire. We provided a copy to Skyworth on July 1, 2003.

From July 7 through July 21, 2003, we received responses to section A of the questionnaire from the following exporters: Changhong, Haier, Hisense, Konka, Philips, Skyworth, Starlight International Holdings, Ltd. (the parent company of Star Light, Star Fair Electronics Co. Ltd., and Starlight Marketing Development Ltd.), SVA, TCL, and XOCECO. We did not receive properly-filed section A responses from any other company.[1]

On July 15, 2003, Changhong requested that the Department find that the CTV industry in the PRC is a market-oriented industry (MOI). On July 21, 2003, the Department notified Changhong that its MOI claim must be made on behalf of the CTV industry as a whole, rather than on behalf of a specific exporter. Also on July 21, 2003, the petitioners submitted a letter in which they opposed Changhong's claim that the CTVs industry is market-oriented.

On July 22, 2003, pursuant to section 777A(c) of the Act, the Department determined that, due to the large number of exporters of the subject merchandise, it would limit the number of mandatory respondents in this investigation. Therefore, we selected Changhong, Konka, TCL, and XOCECO as the mandatory respondents, in addition to the PRC government. The Department also issued a separate memorandum concerning those exporters and producers who submitted a complete response to section A of the questionnaire and the conditions under which they may be considered for treatment other than inclusion in the rate applicable to the government-controlled enterprise. For further

[1] In July 2003, we also received improperly-filed section A responses from Gain Star and Supra. Neither company responded to our request to file its response properly, despite the fact that we afforded each an additional opportunity to do so and we provided explicit instructions as to how to file properly; therefore, we have returned these responses to Gain Star and Supra and will not consider these responses for purposes of this proceeding.

discussion, see the ''Respondent Selection'' section of this notice, below, and the July 22, 2003, memorandum from the team to the file entitled ''Antidumping Duty Investigation of Certain Color Television Receivers from the People's Republic of China—Selection of Respondents'' (the ''Respondent Selection memo''). *See also* the ''Margins for Exporters Whose Responses Were Not Analyzed'' section of this notice, below.

On July 24, 2003, the Department invited interested parties to comment on surrogate country selection and to provide publicly available information for valuing the factors of production.

On July 31, 2003, the petitioners submitted comments opposing XOCECO's June 18, 2003, scope exclusion request.

During July and August 2003, we issued supplemental section A questionnaires to each of the four mandatory participating respondents in this case (*i.e.*, Changhong, Konka, TCL, and XOCECO) as well as to each of the exporters not selected as mandatory respondents which properly filed a section A response. We received responses to these questionnaires in August 2003.

From August 1 through August 22, 2003, we received responses to the remaining sections of the questionnaire from the four participating mandatory respondents, as well as two exporters who requested to be examined on a voluntary basis (*i.e.*, Haier and Philips).

On August 12, 2003, Changhong, Philips, TCL, and XOCECO submitted additional information related to the claim that the CTVs industry in the PRC is market-oriented.[2]

From August 18 through October 24, 2003, we issued supplemental questionnaires to Changhong, Konka, TCL, and XOCECO. We received responses to these questionnaires from August 26 through October 31, 2003.

On August 22, 2003, the petitioners responded to the respondents' August 12, 2003, MOI submission. Also on August 22, 2003, the petitioners submitted information on surrogate values. On September 5, 2003, Skyworth submitted company-specific information to support the MOI claim made in this case. Also on September 5, 2003, we received information related to surrogate values from Changhong, Philips, and TCL, as well as comments on surrogate country selection from Haier.

On September 9, 2003, Haier submitted company-specific information to support the MOI claim made in this case.

On September 15, 2003, we notified Changhong, Philips, TCL, and XOCECO that their MOI claim did not sufficiently address the three prongs of the Department's MOI test, and that, as a consequence, we were unable to conclude that the experiences of the firms making the claim are representative of the industry. In the letter, we provided further guidance as to what was necessary for an MOI investigation. Copies of this letter were also provided to Haier, Skyworth, and the PRC government.

On September 16, 2003, Changhong, Haier, Philips, TCL, and XOCECO responded to the petitioners' August 22, 2003, comments on the MOI issue.

On September 17, 2003, pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f), the Department determined that the case was extraordinarily complicated and postponed the preliminary determination until no later than November 21, 2003. *See Postponement of Preliminary Determinations of Antidumping Duty Investigations: Certain Color Television Receivers From Malaysia (A–557–812) and the People's Republic of China (A–570–884),* 68 FR 55372 (Sept. 25, 2003).

From October 3 through November 3, 2003, the petitioners submitted additional surrogate value information. Changhong provided comments on certain of these submissions on October 16, October 31, and November 6, 2003.

Also on October 16, 2003, the petitioners alleged that critical circumstances exist with respect to imports of CTVs from the PRC. Accordingly, pursuant to section 732(e) of the Act, on October 17, 2003, we requested information from Changhong, Konka, TCL, and XOCECO regarding monthly shipments to the United States during the period January 2001 through October 2003. We received the requested information on October 31 and November 3, 2003. The critical circumstances analysis for the preliminary determination is discussed below under ''Critical Circumstances.''

On October 24 and October 31, 2003, Changhong submitted additional information related to surrogate values.

On October 30, 2003, we issued an additional supplemental questionnaire to Changhong. We received Changhong's responses to this questionnaire on November 10, 2003, and November 12, 2003. Although these responses were received too late for use in the preliminary determination, we intend to verify this information and consider it for use in the final determination.

On October 31, 2003, Changhong submitted a request regarding its MOI claim, stating that before making its final determination in this case, the Department should identify any additional specific MOI information required from the PRC CTVs producers.

On November 10, 2003, the petitioners submitted additional surrogate value information. Although this information was received too late for use in the preliminary determination, we will consider it for use in the final determination.

Also on November 10, 2003, Konka requested that the Department postpone the final determination until 135 days after the publication of the preliminary determination. For further discussion, see the ''Postponement of Final Determination'' section of this notice.

Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On November 10, 2003, Konka, which represents a significant proportion of exports, requested that the Department postpone its final determination until 135 days after the publication of the preliminary determination. Konka also included a request to extend the provisional measures to not more than six months. Accordingly, since we have made an affirmative preliminary determination and no compelling reasons for denial exist, we have postponed the final determination until not later than 135 days after the publication of the preliminary determination.

Period of Investigation

Pursuant to 19 CFR 351.204(b)(1), the POI for an investigation involving merchandise from a non-market economy (NME) is the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, May 2002). Therefore, in this case, the POI is

[2] Changhong provided additional documentation supporting this claim on August 20, 2003.

October 1, 2002, through March 31, 2003.

Scope of Investigation

For purposes of this investigation, the term ''certain color television receivers'' includes complete and incomplete direct-view or projection-type cathode-ray tube color television receivers, with a video display diagonal exceeding 52 centimeters, whether or not combined with video recording or reproducing apparatus, which are capable of receiving a broadcast television signal and producing a video image. Specifically excluded from this investigation are computer monitors or other video display devices that are not capable of receiving a broadcast television signal.

The color television receivers subject to this investigation are currently classifiable under subheadings 8528.12.2800, 8528.12.3250, 8528.12.3290, 8528.12.4000, 8528.12.5600, 8528.12.3600, 8528.12.4400, 8528.12.4800, and 8528.12.5200 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 the merchandise under investigation is dispositive.

Scope Comments

In accordance with the preamble to our regulations (*see Antidumping Duties;* Countervailing Duties, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice* (*see* 68 FR at 32013). Interested parties submitted such comments by June 18, 2003.

Pursuant to the Department's solicitation of scope comments in the *Initiation Notice,* XOCECO requested that HDTVs be excluded from the scope of this investigation because: (1) These CTVs are produced by the petitioners only in limited amounts; and (2) they differ from the CTVs covered by the scope of the investigation in terms of physical characteristics, ultimate uses, purchaser expectations, channels of trade, and the manner of advertising and display. On July 31, 2003, the petitioners opposed this request.

After considering the respondent's comments and the petitioners' objections to XOCECO's request regarding HDTVs, we find that the CTVs in question fall within the scope of this investigation. All CTVs, including the CTVs in question, have the same fundamental characteristics—that is they are capable of receiving a broadcast signal and displaying a video image. Therefore, we conclude that all CTVs, including HDTVs, are appropriately included in the scope of this investigation, and constitute a single class or kind of merchandise. For a further discussion, see the November 21, 2003, memorandum to Louis Apple, Director, Office 2 from the team entitled ''Scope Exclusion Request.''

Respondent Selection

In June 2003, the Department designated the PRC government as the mandatory respondent in this case and issued it the questionnaire for distribution to appropriate parties. The Department also sent courtesy copies of the questionnaire to PRC companies which the Department identified as exporters/producers of subject merchandise.

In July 2003, we received section A responses from 12 producers/exporters of CTVs in the PRC. Each of these exporters requested to be selected as a respondent in this case and requested a separate rate. In addition, we received information from two additional companies issued a questionnaire indicating that they did not export CTVs to the United States during the POI. We did not receive responses from the remaining companies who were sent courtesy copies of the questionnaire.

On July 22, 2003, the Department determined that it did not have the resources to investigate all producers/exporters of the subject merchandise requesting a separate rate. Rather, we found that it was practicable to examine a maximum of four producers/exporters. Therefore, we selected as mandatory respondents in this case the four companies with the largest export volumes during the POI (*i.e.*, Changhong, Konka, TCL, and XOCECO). For further discussion, see the Respondent Selection memo.

Nonmarket Economy Country Status

The Department has treated the PRC as an NME country in all past antidumping investigations. *See, e.g., Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Malleable Iron Pipe Fittings From the People's Republic of China,* 68 FR 61395, 61396 (Oct. 28, 2003). A designation as an NME remains in effect until it is revoked by the Department. *See* section 771(18)(C) of the Act.

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs us to base normal value (NV) on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the ''Normal Value'' section of the notice, below.

No party in this investigation has requested a revocation of the PRC's NME status. We have, therefore, preliminarily continued to treat the PRC as an NME.

Market Oriented Industry

On July 15, 2003, Changhong requested that the Department make a determination that the CTV industry in the PRC is an MOI. Changhong submitted certain company-specific data in support of its request. On July 21, 2003, the petitioners submitted a letter in which they opposed Changhong's claim that the CTVs industry is market-oriented. Specifically, the petitioners stated that Changhong has not provided evidence to support its claim that the majority of its material inputs are valued at market prices. The petitioners also stated that Changhong has not provided evidence to rebut allegations that the PRC government regulates prices in the CTV industry, and that CTV producers in the PRC have been assisted by direct government involvement in financing, advertising, labor, utilities, currency exchange, and government ownership of CTV-producing companies.

Also on July 21, 2003, the Department notified Changhong that its MOI claim must be made on behalf of the CTV industry as a whole, rather than on behalf of a specific exporter. On August 12, 2003, Changhong, Konka, Philips, TCL, and XOCECO submitted additional information related to the claim that the CTVs industry in the PRC is market-oriented. On August 22, 2003, the petitioners responded to this submission. In their August 22, 2003, submission, the petitioners stated that the respondents' August 12, 2003, submission did not provide data on substantially all of the CTV industry in the PRC and that the respondents did adequately address the allegations contained in the petitioners' July 21, 2003, submission, *i.e.*, that non-market economy forces in the PRC have a significant impact on the CTV industry and distort the true cost of production.

On September 5 and September 9, 2003, Skyworth and Haier, respectively, submitted company-specific information to support the MOI claim made in this case.

On September 15, 2003, we notified Changhong, Konka, Philips, TCL, and XOCECO that their MOI claim did not

sufficiently address the three prongs of the Department's MOI test (*see* below), and that, as a consequence, we were unable to conclude that the experiences of the firms making the claim are representative of the industry. Copies of this letter were also provided to Haier, Skyworth, and the PRC government. On September 16, 2003, Changhong, Haier, Philips, TCL, and XOCECO responded to the petitioners' August 22, 2003, comments on the MOI issue, but they did not address the Department's concerns.

On October 31, 2003, Changhong submitted a request regarding its MOI claim, stating that before making its final determination in this case, the Department should identify the specific MOI information required from the PRC CTV producers.

In order to consider a MOI claim, the Department requires information on each of the three prongs of the MOI test regarding the situation and experience of the PRC CTV industry as a whole. Specifically, the MOI test requires that: (1) There be virtually no government involvement in production or prices for the industry; (2) the industry is marked by private or collective ownership that behaves in a manner consistent with market considerations; and (3) producers pay market-determined prices for all major inputs, and for all but an insignificant proportion of minor inputs. Even in those cases where the number of investigated firms is limited by the Department, a MOI allegation must cover all (or virtually all) of the producers in the industry in question. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Synthetic Indigo From the People's Republic of China,* 64 FR 69723, 69725 (Dec. 14, 1999). *See also Notice of Final Determination of Sales at Less Than Fair Value: Freshwater Crawfish Tail Meat From the People's Republic of China,* 62 FR 41347, 41353 (Aug. 1, 1997).

As a threshold matter, we note that the respondents have not provided information for the record that covers virtually all of the producers of the industry. Rather, the respondents provided certain data related to companies which appear to be export-oriented without demonstrating that this data applies equally to other CTV producers within the PRC. Because the MOI allegation made in this case has not provided an adequate basis for considering the three factors of the Department's MOI test, we are unable to consider the MOI request.

Separate Rates

In an NME proceeding, the Department presumes that all companies within the country are subject to governmental control and should be assigned a single antidumping duty rate unless the respondent demonstrates the absence of both *de jure* and *de facto* governmental control over its export activities. *See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China,* 61 FR 19026, 19027–28 (Apr. 30, 1996) (*Bicycles*). Changhong, Konka, TCL, XOCECO, and the cooperative non-selected exporters named in the ''Suspension of Liquidation'' section below have provided the requested company-specific separate rates information and have indicated that there is no element of government ownership or control over their export operations. We have considered whether the mandatory respondents are eligible for a separate rate as discussed below.

The Department's separate rate test is not concerned, in general, with macroeconomic/ border-type controls (*e.g.*, export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine,* 62 FR 61754, 61758–60 (Nov. 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Final Results of Antidumping Duty Administrative Review,* 62 FR 61276, 61279 (Nov. 17, 1997); and *Notice of Preliminary Determination of Sales at Less than Fair Value: Honey from the People's Republic of China,* 60 FR 14725, 14727 (Mar. 20, 1995).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588, 20589 (May 6, 1991), as modified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585, 25586–87 (May 2, 1994) (*Silicon Carbide*). Under the separate rates criteria, the Department assigns separate rates in NME cases only if the respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities. *See Silicon Carbide* and *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China,* 60 FR 22544, 22545 (May 8, 1995) (*Furfuryl Alcohol*).

1. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

The mandatory respondents have placed on the record a number of documents to demonstrate absence of *de jure* control, including the ''Law of the People's Republic of China on Industrial Enterprises Owned By the Whole People.''

In prior cases, the Department has analyzed these laws and found that they establish an absence of *de jure* control. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Partial-Extension Steel Drawer Slides With Rollers From the People's Republic of China,* 60 FR 29571, 29573 (June 5, 1995);[3] *Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal From the People's Republic of China,* 60 FR 56045, 56046 (Nov. 6, 1995). We have no new information in this proceeding which would cause us to reconsider this determination.

According to the mandatory respondents, CTV exports are not affected by export licensing provisions or export quotas. These respondents claim to have autonomy in setting the contract prices for sales of CTVs through independent price negotiations with their foreign customers without interference from the PRC government. Based on the assertions of the respondents, we preliminarily determine that there is an absence of *de jure* government control over the pricing and marketing decisions of the respondents with respect to their CTV export sales.

[3] This was unchanged in the final determination. *See, Notice of Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China,* 60 FR 54472, 54474 (Oct. 24, 1995).

2. Absence of De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China,* 63 FR 72255, 72256 (Dec. 31, 1998). Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Id.*

The mandatory respondents have asserted the following: (1) They establish their own export prices; (2) they negotiate contracts without guidance from any governmental entities or organizations; (3) they make their own personnel decisions; and (4) they retain the proceeds of their export sales and use profits according to their business needs. Additionally, the respondents' questionnaire responses indicate that they do not coordinate with other exporters in setting prices or in determining which companies will sell to which markets. This information supports a preliminary finding that there is an absence of *de facto* governmental control of the export functions of these companies. Consequently, we preliminarily determine that the mandatory respondents have met the criteria for the application of separate rates.

Margins for Cooperative Exporters Not Selected

For those exporters: (1) Who submitted a timely response to section A of the Department's questionnaire, but were not selected as mandatory respondents, and (2) for whom the section A response indicates that the exporter is eligible for a separate rate, we assigned a weighted-average of the rates of the fully analyzed companies, excluding any rates that were zero, *de minimis*, or based entirely on facts available. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Carbon-Quality Steel Pipe from the People's Republic of China,* 67 FR 36570, 36571 (May 24, 2002) (*Welded Steel Pipe*). Companies receiving this rate are identified by name in the ''Suspension of Liquidation'' section of this notice.

PRC-Wide Rate and Use of Facts Otherwise Available

As in all NME cases, the Department implements a policy whereby there is a rebuttable presumption that all exporters or producers located in the NME comprise a single exporter under common government control, the ''NME entity.'' The Department assigns a single NME rate to the NME entity unless an exporter can demonstrate eligibility for a separate rate.

Section 776(a)(2) of the Act provides that if an interested party or any other person: (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadline, or in the form or manner requested; (C) significantly impedes a proceeding; or (D) provides such information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination.

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Information on the record of this investigation indicates that there are numerous producers/exporters of the subject merchandise in the PRC. As noted in the ''Case History'' section above, all exporters were given the opportunity to respond to the Department's questionnaire. Based upon our knowledge of the PRC and the fact that U.S. import statistics show that the responding companies did not account for all imports into the United States from the PRC, we have preliminarily determined that certain PRC exporters of CTVs failed to respond to our questionnaire. As a result, use of facts available (FA), pursuant to section 776(a)(2)(A) of the Act, is appropriate.

In selecting among the facts otherwise available, section 776(b) of the Act authorizes the Department to use adverse facts available (AFA) if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See, e.g., Bicycles,* 61 FR at 19028; *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation,* 65 FR 5510, 5518 (Feb. 4, 2000). MOFCOM was notified in the Department's questionnaire that failure to submit the requested information by the date specified might result in use of FA. The producers/exporters that decided not to respond to the Department's questionnaire failed to act to the best of their ability in this investigation. Absent a response, we must presume government control of these companies. The Department has determined, therefore, that in selecting from among the facts otherwise available an adverse inference pursuant to section 776(b) of the Act is warranted.

In accordance with our standard practice, as AFA, we are assigning as the PRC-wide rate the higher of: (1) The highest margin stated in the notice of initiation (*i.e.*, the recalculated petition margin); or (2) the highest margin calculated for any respondent in this investigation. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Quality Steel Products from the People's Republic of China,* 65 FR 34660 (May 31, 2000) and accompanying decision memorandum at *Comment 1.* In this case, the preliminary AFA margin is 78.45 percent, which is the highest margin stated in the notice of initiation. *See Initiation Notice,* 68 FR at 32016.

Corroboration of Information

Section 776(b) of the Act authorizes the Department to use AFA information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is defined as ''[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review

under section 751 concerning the subject merchandise.'' *See* Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316 at 870 (1994) and 19 CFR 351.308(d). The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* the SAA at 870. The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics, customs data, and information obtained from interested parties during the particular investigation. *See* the SAA at 870.

In order to determine the probative value of the margins in the petition for use as AFA for purposes of this determination, we examined evidence supporting the calculations in the petition. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose. *See* the May 22, 2003, *Initiation Checklist,* on file in the Central Records Unite (CRU), Room B–099, of the Main Commerce Department building, for a discussion of the margin calculations in the petition. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and NV calculations on which the margins in the petition were based.

In order to corroborate the petition's EP calculations, we compared the prices in the petition for CTVs to the prices submitted by the mandatory respondents. In order to corroborate the petitioners' NV calculation, we compared the petitioners' factor consumption and/or surrogate value data for CTVs to the data reported by the respondents for the most significant factors—color picture tubes (CPTs), cabinets, woofer speakers, remotes with tuners, other parts and components, electricity, factory overhead, selling, general, and administrative (SG&A) expenses, profit, and packing expenses—and to surrogate values selected by the Department for the preliminary determination, as discussed below.

As discussed in the November 21, 2003, memorandum from the team to the file entitled ''Corroboration of Data Contained in the Petition for Assigning an Adverse Facts Available Rate,'' we found the U.S. price and factors of production information in the petition to be reasonable and of probative value. As a number of the surrogate values selected for the preliminary determination differed from those used in the petition, we compared the petition margin calculations to the calculations based on the selected surrogate values wherever possible and found they were reasonably close. Therefore, we preliminarily determine that the petition information has probative value. Accordingly, we find that the highest margin stated in the notice of initiation, 78.45 percent, is corroborated within the meaning of section 776(c) of the Act. For further discussion, see the November 21, 2003, memorandum from the team to the file entitled ''Corroboration of Data Contained in the Petition for Assigning an Adverse Facts Available Rate.''

Fair Value Comparisons

To determine whether sales of CTVs from the PRC were made at LTFV, we compared the EP or constructed export price (CEP) to the NV, as described in the ''Export Price/Constructed Export Price,'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs and CEPs by product to the appropriate product-specific NV.

Export Price/Constructed Export Price

A. Changhong

For Changhong, we used EP methodology in accordance with section 772(a) of the Act because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and CEP methodology was not otherwise appropriate. We based EP on the packed FOB PRC port or CIF U.S. port prices to unaffiliated purchasers in the United States, as appropriate. We made deductions for movement expenses, in accordance with 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling, ocean freight, and marine insurance. As certain of these movement services were provided by NME suppliers, we valued them using Indian rates. For further discussion of our use of surrogate data in an NME proceeding, as well as selection of India as the appropriate surrogate country, see the ''Normal Value'' section of this notice, below.

With respect to ocean freight, Changhong asserted that it used both PRC and market-economy suppliers for its shipments of CTVs. However, based on Changhong's submitted information, we could only establish that one of Changhong's market-economy carriers charged market-economy prices. Specifically, Changhong's questionnaire responses indicate that, for Changhong's remaining market-economy carriers, ocean freight was paid to a PRC company, not a market-economy supplier. Therefore, we valued ocean freight expenses for Changhong's remaining market-economy carriers, as well as its PRC carriers, using the substantiated market-economy carrier's rates. For further discussion, see the November 21, 2003, memorandum from Elizabeth Eastwood to the file entitled, ''U.S. Price and Factors of Production Adjustments for Sichuan Changhong Electric Co., Ltd. for the Preliminary Determination.''

Where appropriate, we adjusted the values to reflect inflation up to the POI using the wholesale price indices (WPI) or the purchase price indices (PPI) published by the International Monetary Fund (IMF), as appropriate.

B. Konka

For Konka, we used EP methodology in accordance with section 772(a) of the Act because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and CEP methodology was not otherwise appropriate. We based EP on the packed FOB PRC port prices to unaffiliated purchasers in the United States, as appropriate. We made deductions for movement expenses, in accordance with 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight and foreign brokerage and handling. As certain of these movement services were provided by NME suppliers, we valued them using Indian rates. For further discussion of these values, see the ''Normal Value'' section of this notice, below.

C. TCL

For TCL, we used EP methodology in accordance with section 772(a) of the Act because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and CEP methodology was not otherwise appropriate. In accordance with our practice, we excluded sales made to the United States through a Japanese reseller as well as a sample sale to the United States from our analysis for purposes of the preliminary determination because they were made in small quantities. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan,* 64 FR 8291, 8295 (Feb. 19, 1999) and *Notice of Preliminary Determination of Sales at Not Less Than*

Fair Value: Pure Magnesium From the Russian Federation, 66 FR 21319, 21322–23 (Apr. 30, 2001).

We based EP on the packed FOB PRC prices to unaffiliated purchasers in the United States. We made deductions for movement expenses, in accordance with 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight and foreign brokerage and handling. As certain of these movement services were provided by NME suppliers, we valued them using Indian rates. For further discussion of these values, see the ''Normal Value'' section of this notice, below.

D. XOCECO

For XOCECO, we used CEP methodology in accordance with section 772(b) of the Act, because sales to the first unaffiliated purchaser in the United States took place after importation. We calculated CEP based on ex-warehouse or delivered prices to unaffiliated purchasers in the United States. We made deductions for movement expenses, in accordance with 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. inland freight, U.S. warehousing, other U.S. transportation expenses, U.S. customs brokerage fees and duties in accordance with section 772(c)(2)(A) of the Act. For freight services provided by market-economy companies and paid for in a market currency, we used the actual prices which XOCECO paid to the freight supplier in our CEP calculation. Where these movement services were provided by NME suppliers, we valued them using Indian rates.

Regarding U.S. warehousing and other U.S. transportation expenses, XOCECO attempted to respond to our requests for information but failed to properly include this information in its sales database. Because XOCECO was only partially responsive, we have not relied on its control-number-specific U.S. warehousing and other U.S. transportation expenses, and instead have based the amount of these expenses on FA, pursuant to section 776(a)(2)(A) of the Act. In selecting among the facts otherwise available, we applied the average of the reported model-specific warehouse and other transportation expenses for every transaction during the POI.

We made additional deductions from CEP for credit expenses, warranty expenses, and U.S. indirect selling expenses, including U.S. inventory carrying costs and other indirect selling expenses, in accordance with section 772(d)(1) of the Act. Regarding warranty expenses, XOCECO twice failed to provide requested documentation substantiating the breakdown of warranty expenses between subject and non-subject merchandise. As a result, we find that the use of FA, pursuant to section 776(a)(2)(A) of the Act, is appropriate. Furthermore, since the Department finds that XOCECO failed to cooperate by not acting to the best of its ability to comply with the request for information, an adverse inference is warranted under section 776(b) of the Act. As AFA, we applied the highest reported model-specific warranty expense for every transaction during the POI.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. We calculated the CEP profit ratio for XOCECO based on the financial data reported in the income statements of three Indian producers of CTVs, BPL Limited (BPL), Onida Saka Limited (Onida Saka), and Videocon International Limited (Videocon) for the year ended 2002.

Normal Value

A. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) Are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. The Department has determined that India, Pakistan, Indonesia, Sri Lanka, and the Philippines are countries comparable to the PRC in terms of overall economic development. *See* the July 10, 2003, memorandum from Ron Lorentzen to Louis Apple entitled ''Antidumping Duty Investigation of Color Television Receivers from the People's Republic of China (PRC): Request for a List of Surrogate Countries.''

According to the available information on the record, we have determined that India is a significant producer of CTVs. *See* the November 21, 2003, memorandum from the team to the file entitled ''Preliminary Determination Factors Valuation Memorandum,'' (the Factors Memorandum), on file in the CRU. For purposes of the preliminary determination, we have selected India as the surrogate country, based on the quality and contemporaneity of the currently available data. Accordingly, we have calculated NV using Indian values for the PRC producers' factors of production. We have obtained and relied upon publicly available information wherever possible.

Factors of Production

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value factors of production. However, the Department's regulations also provide that where a producer sources an input from a market economy and pays for it in market economy currency, the Department employs the actual price paid for the input to calculate the factors-based NV. *Id.; see also Lasko Metal Products* v. *United States,* 43 F. 3d 1442, 1445–1446 (Fed. Cir. 1994). Changhong, Konka, TCL, and XOCECO reported that some of their inputs were purchased from market economies and paid for in a market economy currency. Where respondents were unable to provide sufficient documentation that certain inputs were purchased from market-economy suppliers, we valued these inputs using surrogate values.

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by each respondent for the POI. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available Indian surrogate values. For purposes of calculating NV, we valued PRC factors of production, in accordance with section 773(c)(1) of the Act. Factors of production include, but are not limited to: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital cost, including depreciation. In examining surrogate values, we selected, where possible, the publicly available value which was: (1) an average non-export value; (2) representative of a range of prices within the POI or most contemporaneous with the POI; (3) product-specific; and (4) tax-exclusive. For a more detailed explanation of the methodology used in calculating various surrogate values, see the Factors Memorandum.

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. We added to Indian surrogate values surrogate freight costs using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal

Circuit's decision in *Sigma Corporation* v. *United States,* 117 F. 3d 1401, 1407–08 (Fed. Cir. 1997). For a discussion of the valuation of Changhong, Konka, and TCL's freight costs, see the ''Export Price/Constructed Export Price'' section of this notice, above. Regarding the valuation of foreign inland freight for XOCECO, we note that XOCECO failed to amend its factors of production database to include distances and modes of transportation from NME suppliers, despite a specific request that it do so. As a result, we find that the use of FA, pursuant to section 776(a)(2)(A) of the Act, is appropriate. Furthermore, because XOCECO failed to cooperate by not acting to the best of its ability to comply with the request for information, we find that an adverse inference is warranted under section 776(b) of the Act. In calculating freight on factor inputs, as AFA, we multiplied the factor input by the highest freight surrogate value on the record of this case and the distance from the applicable port to the factory.

Where appropriate, we adjusted surrogate values to reflect inflation up to the POI using the WPI or the PPI published by the IMF, as appropriate.

Some inputs were purchased from market-economy suppliers and paid for in convertible currency. Following our normal practice, we used the actual price paid for these inputs, where possible. However, where the input was not purchased from a market-economy supplier and paid for in a market-economy currency, or where the input was purchased from a market-economy country which the Department has found to maintain broadly-available, non-industry-specific subsides which may benefit all exporters to all export markets (*i.e.*, Korea, India, Indonesia, and Thailand), it was necessary to select a surrogate value.

Regarding color picture tubes and speakers, where the respondents purchased these inputs from suppliers in the PRC or from one of the market economies identified above, we valued these inputs using import data obtained from *http://www.infodriveindia.com,* a fee-based Web site providing Indian customs data. We used this source because it provided the most specific information available for the color picture tubes and speakers used by the respondents. *See* the Factors Memorandum. We valued all other major raw material inputs not purchased by the respondents from market economies using India import statistics published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India, Calcutta and published by the *World Trade Atlas Trade Information System (World Trade Atlas)* covering the period October 2002 through March 2003.

Regarding sales of scrap metal, XOCECO twice failed to provide requested documentation demonstrating sales of scrap metal during the POI. As a result, use of FA, pursuant to section 776(a)(2)(A) of the Act, is appropriate. Furthermore, since the Department finds that XOCECO failed to cooperate by not acting to the best of its ability to comply with the request for information, an adverse inference is warranted under section 776(b) of the Act. As AFA, we are denying XOCECO any offset on sales of tin scrap to its consumption of tin. Rather, we allocated this quantity of scrap across the production of subject merchandise during the POI, thereby increasing the per-unit consumption of this metal.

We valued natural gas using a price obtained from the website of the Gas Authority of India Ltd., a supplier of natural gas in India, covering the period January through June 2002. For further discussion, *see* the Factors Memorandum.

For aluminum paper, cardboard, carton, inner cardboard paper, labels, manuals, nails, outside cardboard paper, package bags, packing tape, plastic accessory bags, plastic bags, plastic strap, polyethylene plastic bags, polyfoam, polypropylene sheet, and staples (*i.e.*, the packing materials reported by the respondents), we used import values from the *World Trade Atlas.*

Regarding the remaining raw material factors of production reported by the respondents, we did not value these factors because: (1) Surrogate value information was not available; and (2) the materials were reported as used in very small amounts. *See* the memorandum entitled ''Concurrence Memorandum for the Preliminary Determination in the Investigation of Certain Color Television Receivers from the People's Republic of China,'' dated November 21, 2003. We valued electricity using electricity rate data from the International Energy Agency's Key World Energy Statistics 2002 report (*see http://www.iea.org/statist/keyworld2002/key2002/keystats.htm*) used in the 2002–2003 antidumping duty administrative review of creatine from the PRC. *See Creatine Monohydrate From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review,* 68 FR 62767, 62769 (Nov. 6, 2003).

We valued labor based on a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3).

To determine factory overhead, depreciation, SG&A expenses, interest expenses, and profit for the finished product, we relied on rates derived from the financial statements of BPL, Onida Saka, and Videocon, Indian producers of identical merchandise. We applied these ratios to the respondents' costs (determined as noted above) for materials, labor, and energy.

Critical Circumstances

On October 16, 2003, the petitioners alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigation of CTVs from the PRC. In accordance with 19 CFR 351.206(c)(2)(i), because petitioners submitted a critical circumstances allegation more than 20 days before the scheduled date of the preliminary determination, the Department must issue its preliminary critical circumstances determination not later than the date of the preliminary determination.

Section 733(e)(1) of the Act provides that the Department, upon receipt of a timely allegation of critical circumstances, will determine whether there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and 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.

According to 19 CFR 351.206(h)(1), 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, 19 CFR 351.206(h)(2) provides that ''unless the imports during a ''relatively short period'' have increased by at least 15 percent over the imports during an immediately preceding period of comparable duration, the Secretary will not consider the imports massive.''

In accordance with 19 CFR 351.206(i), the Department defines ''relatively short period'' as generally the period beginning on the date the proceeding

begins (*i.e.*, the date the petition is filed) and ending at least three months later.

In determining whether the above statutory criteria have been satisfied, we examined: (1) The evidence presented in the petitioners' submission of October 16, 2003; (2) exporter-specific shipment data requested by the Department; (3) evidence obtained since the initiation of the LTFV investigation (*i.e.*, additional import statistics released by U.S. Customs and Border Protection (CBP)); and (4) the ITC preliminary injury determination.

To determine whether a history of dumping and material injury exists, the Department generally considers current or previous antidumping duty orders on the subject merchandise from the country in question in the United States and current orders in any other country. The Department will normally not consider the initiation of a case, or a preliminary or final determination of sales at LTFV in the absence of an affirmative finding of material injury by the ITC, as indicative of a history sufficient to satisfy this criterion. *See Preliminary Determinations of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova,* 65 FR 70696, 70696–97 (Nov. 27, 2000). With regard to imports of CTVs from the PRC, the European Union (EU) imposed antidumping duty measures on CTVs from the PRC in 1995. *See* Council Regulation 1531/2002 of 14 August 2002 on Imposing a Definitive Anti-dumping Duty on Imports of Colour Television Receivers, 2002 O.J. (L 231)1–28. Because there is a history of dumping and material injury by reason of dumped imports in the EU of the subject merchandise, the first criterion of the test for finding critical circumstances is met.

Because we have preliminarily found that section 733(e)(1)(A) of the Act is met, we must consider whether under section 733(e)(1)(B) of the Act imports of the merchandise have been massive over a relatively short period. According to 19 CFR 351.206(h), we consider the following to determine whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by the imports.

When examining volume and value data, the Department typically compares the export volume for equal periods immediately preceding and following the filing of the petition. Unless the imports in the comparison period have increased by at least 15 percent over the imports during the base period, we will not consider, under 19 CFR 351.206(h), the imports to have been ''massive.''

To determine whether imports of subject merchandise have been massive over a relatively short period, we compared the respondents' export volumes for the five months before the filing of the petition (*i.e.*, December 2002 through April 2003) to that during the five months following the filing of the petition (*i.e.*, May through September 2003). These periods were selected based on the Department's practice of using the longest period for which information is available from the month that the petition was filed through the effective date of the preliminary determination.

The Department requested and obtained from Changhong, Konka, TCL, and XOCECO monthly shipment data for 2001, 2002, and 2003. According to the monthly shipment information, we found the volume of shipments of CTVs by each of these companies increased by more than 15 percent. Therefore, we analyzed the time series data for the two years prior to the petition (*i.e.*, 2001 and 2002), to address the issue of seasonality. Although this data shows there have also been significant surges in imports from the respondents between those same base and comparison periods, we find that this seasonal pattern does not account entirely for the increase in imports. Specifically, we note that imports have increased substantially over their normal seasonal levels. We therefore find that imports of subject merchandise were massive in the comparison period. For further discussion of this analysis, see the November 21, 2003, memorandum from the team to Louis Apple, Office Director, entitled ''Antidumping Duty Investigation of Certain Color Televisions (CTVs) from the People's Republic of China Preliminary Affirmative Determination of Critical Circumstances,'' (Critical Circumstances Memo).

With regard to the share of domestic consumption accounted for by imports, we were unable, pursuant to 19 CFR 351.206(h)(iii), to consider the share of domestic consumption accounted for by the imports because the available data did not permit such analysis. It is the Department's practice to conduct its critical circumstances analysis of companies in the ''All Others'' category based on the experience of the investigated companies. Because we are determining that critical circumstances exist for each of the mandatory respondents in this investigation, we are concluding that critical circumstances exist for companies covered by the ''All Others'' rate.

As discussed above, no other party responded to the Department's request for information and thus we relied on AFA for the rate applicable to the ''PRC entity'' (*i.e.*, the PRC-wide rate). Therefore, the use of AFA is also warranted in the critical circumstances analysis for the PRC entity. As AFA in this case, we relied on the import statistics through September 2003 (the latest month for which such data was available for the preliminary determination). The import statistics showed an increase in imports that was significantly greater than 15 percent. Even if we were to subtract the shipment data provided by the mandatory respondents from the aggregate import data and to compare the remaining volume of imports in the base period to the remaining imports in the comparison period, this comparison would indicate that massive imports occurred. *See* the Critical Circumstances Memo.

In summary, we find there is a reasonable basis to believe or suspect importers had knowledge of dumping and the likelihood of material injury with respect to CTVs from the PRC. We further find there have been massive imports of CTVs over a relatively short period from each of the mandatory respondents. Given the analysis summarized above, and described in more detail in the Critical Circumstances Memo, we preliminarily determine critical circumstances exist for imports of CTVs produced in and exported from the PRC.

In accordance with section 733(e)(2) of the Act, upon issuance of an affirmative preliminary determination of sales at LTFV in the investigation with respect to CTVs from the PRC, the Department will direct the CBP to suspend liquidation of all entries of CTVs from the PRC that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication in the **Federal Register** of our preliminary determination in this investigation. The CBP shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margins reflected in the preliminary determinations published in the **Federal Register**. The suspension of liquidation to be issued after our preliminary determination will remain in effect until further notice. We will make a final determination concerning critical circumstances for all producers and exporters of subject merchandise from the PRC when we make our final determination in this investigation, which will be 135 days after the date of publication of the preliminary determination.

Verification

As provided in section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the CBP to suspend liquidation of all imports of subject merchandise from the PRC 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 also instructing the CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin for all entries of CTVs from the PRC. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/Exporter	Weighted-average margin (in percent)	Critical circumstances
Haier Electric Appliances International Co.	40.84	Yes.
Hisense Import and Export Co., Ltd.	40.84	Yes.
Konka Group Company, Ltd.	27.94	Yes.
Philips Consumer Electronics Co. of Suzhou Ltd.	40.84	Yes.
Shenzhen Chaungwei-RGB Electronics Co., Ltd.	40.84	Yes.
Sichuan Changhong Electric Co., Ltd.	45.87	Yes.
Starlight International Holdings, Ltd.	40.84	Yes.
Star Light Electronics Co., Ltd.	40.84	Yes.
Star Fair Electronics Co., Ltd.	40.84	Yes.
Starlight Marketing Development Ltd.	40.84	Yes.
SVA Group Co., Ltd.	40.84	Yes.
TCL Holding Company Ltd.	31.35	Yes.
Xiamen Overseas Chinese Electronic Co., Ltd.	31.70	Yes.
PRC-wide	78.45	Yes.

The PRC-wide rate applies to all entries of the subject merchandise except for entries from exporters/producers that are identified individually above.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

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 whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Case briefs for this investigation must be submitted no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. 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. *See* 19 CFR 351.309.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs 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 within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310.

We will make our final determination no later than 135 days after the date of this preliminary determination, pursuant to section 735(a)(2) of the Act.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: November 21, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 03–29721 Filed 11–26–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–812]

Notice of Negative Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Negative Preliminary Determination of Critical Circumstances: Certain Color Televisions From Malaysia

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

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

SUMMARY: We preliminarily determine that certain color televisions from Malaysia are not being, nor are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended. In addition, we preliminarily determine that there is no reasonable basis to believe or suspect that critical circumstances exist with respect to subject merchandise exported from Malaysia.

Interested parties are invited to comment on this preliminary determination. We will make our final determination not later than 135 days after the date of this preliminary determination.

EFFECTIVE DATE: November 28, 2003.

FOR FURTHER INFORMATION CONTACT: Mike Strollo or Gregory E. Kalbaugh, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0629 or (202) 482–3693, respectively.

Preliminary Determination

We preliminarily determine that certain color televisions (CTVs) from Malaysia are not being sold, 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 Act). The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice. In addition, we