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). 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.

The Department will make its final determination no later than 135 days after the date of publication of this preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(I)(1) of the Act.

Dated: October 20, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–24096 Filed 10–27–04; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–817]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Bottle-Grade Polyethylene Terephthalate (PET) Resin From Indonesia

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

SUMMARY: We preliminarily determine that bottle-grade polyethylene terephthalate (''PET'') resin from Indonesia is being, or is 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.

Interested parties are invited to comment on this preliminary determination. If this investigation proceeds normally, we will make our final determination within 75 days of this preliminary determination.

EFFECTIVE DATE: October 28, 2004.

FOR FURTHER INFORMATION CONTACT: Andrew McAllister or Scott Holland, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1174 or (202) 482–1279, respectively.

SUPPLEMENTARY INFORMATION:

Background

Since the initiation of this investigation (*Notice of Initiation of Antidumping Duty Investigations: Bottle-Grade Polyethylene Terephthalate (PET) Resin from India, Indonesia, Taiwan, and Thailand*, 69 FR 21082 (April 20, 2004) (''*Initiation Notice*'')), the following events have occurred:

On May 10, 2004, we solicited comments from interested parties regarding the criteria to be used for model-matching purposes. We received comments on our proposed matching criteria from the United States PET Resin Producers Coalition (''the petitioner'') and P.T. Indorama Synthetics Tbk (''Indorama'') on May 17, and May 20, 2004, respectively.

On May 24, 2004, we asked the petitioner for clarification of its model-matching comments and its response was provided to the Department of Commerce (''the Department'') on May 26, 2004. On June 9, 2004, the Department adopted the model match criteria and hierarchy for this proceeding. *See* Memorandum to Susan Kuhbach, ''Selection of Model Matching Criteria for Purposes of the Antidumping Duty Questionnaire,'' dated June 9, 2004, which is on file in the Central Records Unit (''CRU'') in room B–099 of the main Department building. On May 19, 2004, the United States International Trade Commission (''ITC'') preliminarily determined that there is a reasonable indication that imports of PET resin from Indonesia are materially injuring the United States PET resin industry (*see* ITC Investigation Nos. 701–TA–439–440 and 731–TA–1077–1080 (Preliminary) 69 FR 28948 (May 19, 2004)).

On June 4, 2004, we selected the three largest producers/exporters of PET resin from Indonesia (Indorama, P.T. Polypet Karyapersada (''Polypet''), and P.T. SK Keris (''SK Keris'')) as the mandatory respondents in this proceeding. For further discussion, *see* Memorandum to Susan Kuhbach, ''Issuance of Questionnaire to Respondents,'' dated June 4, 2004 (''*Respondent Selection Memorandum''*), which is on file in the Department's CRU. We subsequently issued the antidumping questionnaire to Indorama, Polypet, and SK Keris on June 9, 2004.[1]

On June 25, 2004, the Department received a response from Polypet to section A of the Department's original questionnaire. On July 14, 2004, the Department rejected Polypet's section A response because it was improperly filed. *See* letter from Judith Wey Rudman to Polypet, dated July 14, 2004. Specifically, its submission lacked certain markings and specifications required by the Department to ensure proper filing. Furthermore, the submission was neither properly bracketed nor marked as either a public or proprietary version. The Department also noted that Polypet did not include the correct number of copies of the public and proprietary versions of the submission, and that the required certificates of service and accuracy were not correctly filed with its submission. Additionally, the submission was not served on the other interested parties in this proceeding.

The Department received the revised section A and original sections B and C of the response on July 21, 2004, but again rejected the submission due to deficiencies in the treatment of business proprietary information. *See* letter from Judith Wey Rudman to Polypet, dated July 29, 2004. First, we noted that the responses continued to be improperly bracketed under 19 CFR 351.304(b)(1) of the Department's regulations. Second, a ''clear and compelling'' explanation for Polypet's request to exempt certain information from disclosure under an administrative protective order (''APO'') was not provided in its cover letter, as required by 19 CFR 351.304(b)(2)(i). Third, the responses did not contain a summary of bracketed information in the public version of Polypet's response, as required by 19 CFR 351.304(c)(1). Finally, Polypet did not provide the Department with a copy of the business proprietary version served on parties with APO access.

The Department received the revised sections A–C response from Polypet on August 5, 2004. On August 11, 2004, we called Polypet to explain that the August 5, 2004, submission failed to incorporate the instructions set forth in the Department's July 29, 2004, letter. *See* Memo to the File, ''Telephone Conversation with Polypet,'' dated August 11, 2004. On August 12, 2004, the Department rejected as improperly filed Polypet's August 5, 2004, sections A–C submission. *See* letter from Julie H. Santoboni to Polypet, dated August 12,

[1] Section A of the questionnaire requests general information concerning the company corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further manufacturing.

2004. In that letter, the Department also notified Polypet that it had until August 23, 2004, to file a proper submission, including an explanation for its request for proprietary treatment, appropriate bracketing of business proprietary information, and service of the proprietary and correctly summarized public versions of its submission on parties included on the APO service list. The Department advised Polypet that failure to file a response in accordance with the Department's regulations might lead to the use of adverse facts available under section 776 of the Tariff Act of 1930 (''the Act'') and section 351.308 of the Department's regulations for the preliminary determination, as well as the final determination.

The Department received Polypet's revised sections A–C response on August 24, 2004. On August 31, 2004, we spoke with Polypet's chief executive officer and explained that the Department was rejecting Polypet's latest submission. *See* Memo to the File, ''Telephone Conversation with Polypet,'' dated August 31, 2004. On August 31, 2004, we again rejected Polypet's response citing the company's failure to bracket certain business proprietary information in accordance with the Department's regulations. Specifically, Polypet did not agree to release certain sales information under an APO to interested parties in this proceeding. Moreover, Polypet again did not provide a clear and compelling explanation of the need to withhold such information from disclosure under an APO. We informed Polypet that the Department was unable to further extend the deadline for filing the questionnaire responses because, due to statutorily mandated deadlines that govern the investigation, there was no longer sufficient time to evaluate a properly filed response, follow up with supplemental questions, and conduct a margin analysis by the October 20, 2004, preliminary determination. Moreover, the petitioner would not have adequate time to conduct its own analysis and submit comments on Polypet's factual submission. *See* letter from Susan Kuhbach to P.T. Polypet Karyapersada, dated August 31, 2004. On September 15, 2004, at the request of Polypet, a meeting was held with Department officials and a representative of Polypet to discuss the rejection by the Department of Polypet's questionnaire response. *See* Memorandum to the File, dated September 15, 2004.

In July 2004, the Department received responses to sections A, B, and C of the Department's original questionnaire from Indorama. The Department did not receive a response to the questionnaire from SK.

On July 30, 2004, pursuant to 19 CFR 351.205(e), the petitioner made a timely request to postpone the preliminary determination. We granted this request and postponed the preliminary determination until no later than October 20, 2004. *See Notice of Postponement of Preliminary Antidumping Duty Determinations: Bottle-Grade Polyethylene Terephthalate (PET) Resin from India, Indonesia, Taiwan, and Thailand*, 69 FR 48842 (August 11, 2004).

On August 10, 2004, the petitioner made an allegation of sales below the cost of production (''COP'') against sales of PET resin from Indonesia with respect to Indorama. On August 25, 2004, pursuant to section 773(b) of the Act, the Department initiated a cost investigation of Indorama's Indonesian sales of PET resin. *See* Memorandum to Susan Kuhbach, ''United States PET Resin Producers Coalition's Allegation of Sales Below the Cost of Production for P.T. Indorama Synthetics Tbk,'' dated August 25, 2004, which is on file in the CRU. Also, on August 25, 2004, the Department informed Indorama that it was required to respond to section D of the Department's questionnaire. The Department received Indorama's response to section D of the Department's questionnaire on September 13, 2004.

The Department issued supplemental questionnaires for sections A, B, and C in August and September 2004, and received responses from Indorama in August, September, and October 2004. A supplemental section D questionnaire was issued on September 21, 2004, and Indorama's response was received on October 5, 2004.

On October 12, 2004, the petitioner submitted comments with respect to the upcoming preliminary determination.

Postponement of Final Determination

Pursuant to section 735(a)(2) of the Act, 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 under section 733(b), a request can be made by the petitioner. On October 6, 2004, the petitioner requested that the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** in the event of a negative determination or *de minimis* margins. In accordance with 735(a)(2) of the Act and 19 CFR 351.210(b)(2)(i) and (ii) of the Department's regulations, (1) because our preliminary determination is affirmative, and (2) the Department has not received a request for postponement from exporters or producers who account for a significant proportion of exports of the subject merchandise, we are not granting the petitioner's request to postpone the final determination.

Scope of Investigation

The merchandise covered by this investigation is bottle-grade polyethylene terephthalate (''PET'') resin, defined as having an intrinsic viscosity of at least 0.68 deciliters per gram but not more than 0.86 deciliters per gram. The scope includes bottle-grade PET resin that contains various additives introduced in the manufacturing process. The scope does not include post-consumer recycle (''PCR'') or post-industrial recycle (''PIR'') PET resin; however, included in the scope is any bottle-grade PET resin blend of virgin PET bottle-grade resin and recycled PET (''RPET''). Waste and scrap PET are outside the scope of the investigation. Fiber-grade PET resin, which has an intrinsic viscosity of less than 0.68 deciliters per gram, is also outside the scope of the investigations.

The merchandise subject to these investigations is properly classified under subheading 3907.60.0010 of the Harmonized Tariff Schedule of the United States (''HTSUS''); however, merchandise classified under HTSUS subheading 3907.60.0050 that otherwise meets the written description of the scope is also subject to these investigations. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

In accordance with our regulations, 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.*

We received no comments from the interested parties.

Period of Investigation

The period of investigation (''POI'') is January 1, 2003, through December 31, 2003. This period corresponds to the four most recent fiscal quarters prior to

the filing of the petition on March 24, 2004.

Use of Facts Otherwise 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, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that if the Department determines that a response to a request for information does not comply with the Department's request, the Department shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Act further states that 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.

Section 776(a)(2)(B) of the Act requires the Department to use facts otherwise available when a party does not provide the Department with information by the established deadline or in the form and manner requested by the Department. 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, ''affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.'' *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27355 (May 19, 1997) and *Nippon Steel* v. *U.S.,* 337 F.3d 1373 (Fed. Cir. 2003).

Where the Department applies adverse facts available (''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.

As explained in the ''Background'' section of this notice, SK Keris did not respond to our June 9, 2004, antidumping questionnaire. Pursuant to 776(a) of the Act, in reaching our preliminary determination, we have used total facts available for SK Keris because it is a mandatory respondent and did not respond to our June 9, 2004, antidumping questionnaire. Moreover, because SK Keris failed to respond, in whole, or in part, to our request for information and thus did not put forth its maximum effort as required by the questionnaire, we have found that it failed to cooperate to best to its ability. Therefore, pursuant to 776(b) of the Act, we have used an adverse inference in selecting from the facts available the margin for this company. *See* Memorandum from Susan Kuhbach to Jeffery May, ''Preliminary Determination of Polyethylene Terephthalate (''PET'') Resin from Indonesia: Corroboration Memorandum,'' dated October 20, 2004 (''*Corroboration Memorandum*'').

Regarding Polypet, the Department rejected its questionnaire responses because Polypet failed to meet the filing requirements of the statute and the Department's regulations. Specifically, the company failed to serve parties on the APO service list with a proper business proprietary version of the questionnaire response. Additionally, Polypet repeatedly filed questionnaire responses with double brackets, without providing a clear and compelling reason why the information could not be released under an APO. Despite our repeated attempts to allow Polypet to correct for the filing deficiencies, the company failed to do so. *See* ''Background'' section, above. Therefore, in accordance with section 776(a) of the Act and section 351.308(c) of the Department's regulations, in reaching our preliminary determination, we have used total facts available for Polypet because the information necessary to calculate a margin for Polypet is not on the record. *See Corroboration Memorandum.*

The Department also finds that Polypet did not cooperate to the best of its ability because it did not seek our guidance in its attempts to provide us with acceptable responses and it ignored the instructions we provided the company on how to file its response. Moreover, Polypet did not put forth its maximum effort to answer the questionnaire and therefore, pursuant to 776(b) of the Act, we have used an adverse inference in selecting from the facts available for the margin for Polypet.

Because there are no prior administrative reviews and no other information has been placed on the record, as AFA, we are assigning Indorama and SK Keris the higher of: (1) The highest margin listed in the notice of initiation; or (2) the margin calculated for any respondent in this investigation. For AFA, we have selected the margin from the petition, since the margin derived from information in the petition exceeds the margin calculated for the remaining mandatory respondent. When using facts otherwise available, section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition), 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.

Our analysis of the petitioner's methodology for calculating the export price (''EP'') and normal value (''NV'') in the petition is discussed in the initiation notice. *See Initiation Notice.* To corroborate the petitioner's EP and NV calculations, we compared the prices and expenses used to the source documents upon which the petitioner's methodology was based as well as information submitted in Indorama's questionnaire response.

As discussed in the *Corroboration Memorandum,* we found that the EP and NV information in the petition was reasonable and, therefore, we preliminarily determine that the information has probative value. Accordingly, we find that the highest margin based on that information, 27.61 percent, is corroborated within the meaning of 776(c) of the Act. Therefore, for the preliminary determination, we have applied a margin of 27.61 percent to SK Keris and Polypet. Because these are preliminary margins, the Department will consider all margins on the record at the time of the final

determination for the purpose of determining the most appropriate margin for these companies.

Fair Value Comparisons

To determine whether sales of PET resin from Indonesia to the United States were made at less than fair value (''LTFV''), we compared the EP and constructed export price (''CEP'') to the NV, as described in the ''Export Price and Constructed Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average EPs and CEPs to NVs. Any specific changes to the EP, CEP, or NV calculations are discussed in the October 20, 2004, calculation memorandum for Indorama, which is on file in the CRU (''*Calculation Memorandum*'').

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondent in the home market during the POI that fit the description in the ''Scope of Investigation'' section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales of identical merchandise made in the home market, where possible. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

We have relied on four criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product: (1) Intrinsic viscosity; (2) blend; (3) copolymer/homopolymer; and (4) additives.

Date of Sale

In its questionnaire responses, Indorama reported home market sales using invoice date as the date of sale. For U.S. sales with selling terms of free on board (FOB'') and cost, insurance and freight (''CIF''), Indorama reported the invoice date as the date of sale. For U.S. sales with selling terms of delivered duties paid (''DDP''), Indorama reported the sales contract date as the date of sale, because of the time lag between sales contract date (where the quantity and price were established) and the invoice date. Based on the description of the sales process provided by Indorama, we have used invoice date as the date of sale for all sales, with the exception of U.S. DDP sales. For U.S. DDP sales, we preliminarily determine that price and quantity (*i.e.,* the material terms of sale) are established at the time of the sales contract. Therefore, in accordance with 19 CFR 351.401(i), we have relied on the sales contract date for U.S. DDP sales.

Export Price and Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP, as defined in sections 772(a) and 772(b) of the Act, respectively. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold before the date of importation by the producer or exporter outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection 722(c) of the Act.

Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections 772(c) and (d) of the Act.

We calculated EP and CEP, as appropriate, based on the prices charged to the first unaffiliated customer in the United States. We classified certain sales as EP sales because they were made outside the United States by the exporter or producer to unaffiliated customers in the United States prior to the date of importation. We also found that the respondent made CEP sales during the POI. These sales are properly classified as CEP sales because these sales were made to unaffiliated customers after importation into the United States.

We based EP on the DDP, CIF, or FOB price to unaffiliated purchasers in the United States. We identified the starting price, where appropriate, by accounting for rebates, where applicable. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included, where appropriate, foreign inland freight (plant to port), international freight, marine insurance, U.S. brokerage and handling, U.S. inland freight from port to warehouse, U.S. warehousing expense, U.S. inland freight from warehouse to unaffiliated customer. *See Calculation Memorandum.*

We based CEP on the DDP price to unaffiliated purchasers in the United States. We identified the starting price, by accounting for rebates, where applicable. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included, where appropriate, foreign inland freight (plant to port), international freight, marine insurance, U.S. brokerage and handling, U.S. inland freight from port to warehouse, U.S. warehousing expense, U.S. inland freight from warehouse to unaffiliated customer. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (commissions and credit expenses), and inventory carrying costs. Where applicable, we made an adjustment for profit in accordance with section 772(d)(3) of the Act.

Normal Value

A. Selection of Comparison Market

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate), that the time of the sales reasonably corresponds to the time of the sale used to determine EP or CEP, and that there is no particular market situation that prevents a proper comparison with the EP or CEP. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States. Because Indorama's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we preliminarily determine that the home market was viable.

In deriving NV, we made adjustments as detailed in the ''Calculation of Normal Value Based on Home Market Prices'' and ''Calculation of Normal Value Based on Constructed Value'' sections, below.

B. Cost of Production Analysis

As noted above, based on our analysis of an allegation made by the petitioner on August 10, 2004, we found that there were reasonable grounds to believe or suspect that sales of PET resin in the home market were made at prices below the COP. Accordingly, pursuant to section 773(b)(2)(A)(i) of the Act, we initiated a company-specific sales-below-cost investigation to determine whether sales of PET resin were made at prices below the COP.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative (''G&A'') expenses, interest expenses, and home market packing costs.

We relied on COP information submitted by Indorama in its cost questionnaire responses, except for the following adjustments:

We recalculated the G&A expense rate based upon Indorama's unconsolidated income statement. *See* Cost Analysis Memorandum from Trinette Ruffin to Neal Halper, dated October 20, 2004 (''*Indorama's Cost Analysis Memorandum*''). We also recalculated the net financial expense rate based upon Indorama's consolidated income statement. *See Indorama's Cost Analysis Memorandum.*

2. Test of Home Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP for Indorama to its home market sales of PET resin, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were adjusted for any applicable billing adjustments, rebates, movement charges, and indirect selling expenses. In determining whether to disregard home market sales made at prices less than the COP, we examined whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which did not permit the recovery of all costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(1), where less than 20 percent of the respondent's sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we determine that the below-cost sales represent ''substantial quantities'' within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act. If so, we disregard the below-cost sales.

We found that, because less than 20 percent of Indorama's home market sales within an extended period of time were made at prices below the COP, we are not excluding any sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

C. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (''LOT'') as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.*; *see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the ''chain of distribution''),[2] including selling functions,[3] class of customer (''customer category''), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices [4]), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling expenses reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc.* v. *United States*, 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if an NV LOT is more remote from the factory than the CEP LOT and we are unable to make an LOT adjustment, the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

We obtained information from Indorama regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by Indorama for each channel of distribution. Indorama reported that it sells to different types of customers in the home market, and to end users and traders to the United States. Indorama reported a single LOT in the home market and has not requested an LOT adjustment. We examined the information reported by Indorama and found that home market sales to all customer categories were identical with respect to sales process, freight services, warehouse/inventory maintenance, advertising activities, technical service, and warranty service. Accordingly, we preliminarily find that Indorama had only one LOT for its home market sales.

Indorama made both EP and CEP sales to the United States during the POR. Both the EP and CEP sales were made through the same channel of distribution (*i.e.*, sales from the manufacturer directly to the customer). The EP and CEP selling activities do not differ from the home market selling activities. Therefore, we find that the U.S. LOT is similar to the home market LOT and an LOT adjustment or a CEP offset is not necessary. See section 773(a)(7)(A) of the Act.

D. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on ex-factory or delivered prices to unaffiliated customers. We identified the correct starting price, where appropriate, by accounting for billing adjustments and rebates. We made adjustments for differences in packing in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act. We also made adjustments for the following movement expenses, where appropriate, in accordance with section 773(a)(6)(B)(ii) of the Act: foreign inland freight (from plant to customer) expenses and inland

[2] The marketing process in the United States and home market begins with the producer and extends to the sale to the final user or customer. The chain of distribution between the two may have many or few links, and the respondents' sales occur somewhere along this chain. In performing this evaluation, we considered each respondent's narrative response to properly determine where in the chain of distribution the sale occurs.

[3] Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of these preliminary results, we have organized the common selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

[4] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

insurance expenses. In addition, where appropriate, we made adjustments under section 773(a)(6)(C)(iii) of the Act for differences in circumstances of sale for imputed credit expenses and imputed inventory carrying costs. We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred in the comparison market or on U.S. sales where commissions were granted on sales in one market but not in the other (the commission offset).

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the home market sales and U.S. sales, where appropriate, as certified by the Federal Reserve.

Verification

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

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing U.S. Customs and Border Protection (''CBP'') to suspend liquidation of all imports of subject merchandise from Indonesia, except imports of subject merchandise produced and exported by Indorama which has a *de minimis* rate, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP or CEP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
P.T. Indorama Synthetics Tbk.	0.74 (*de minimis*)
P.T. Polypet Karyapersada.	27.61
P.T. SK Keris	27.61
All Others	18.65

All Others

All companies that we examined have either a *de minimis* margin or rates based on total AFA. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(B) of the Act, we have calculated a simple average of the three margin rates we have determined in the investigation.

ITC Notification

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

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs for this investigation must be submitted to the Department no later than 50 days after the date of publication of this preliminary determination or one week after the issuance of the last verification report, whichever is later. Rebuttal briefs must be filed five days after the deadline for submission of 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.

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after 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 to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

If this investigation proceeds normally, we will make our final determination within 75 days of this preliminary determination.

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

Dated: October 20, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E4–2900 Filed 10–27–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–828]

Hot-Rolled Flat-Rolled Carbon Quality Steel Products From Brazil: Notice of Initiation of Antidumping Duty New Shipper Review

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

ACTION: Notice of Initiation of Antidumping New Shipper Review of Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil.

EFFECTIVE DATE: October 28, 2004.

SUMMARY: On September 27, 2004, the Department of Commerce (''the Department'') received a request to conduct a new shipper review of the antidumping duty (''AD'') order on hot-rolled flat-rolled carbon quality steel products from Brazil. In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(d) (2003), we are initiating an AD new shipper review for Companhia Siderrgica de Tubaro (''CST''), a producer and exporter of hot-rolled flat-rolled carbon quality steel products from Brazil.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Kristin Najdi at (202) 482–0405 and (202) 482–8221, respectively; Antidumping and Countervailing Duty Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On September 27, 2004, the Department received a timely request from CST, in accordance with 19 CFR 351.214(c), for a new shipper review of the AD order on certain hot-rolled flat-rolled carbon quality steel products from Brazil, which has a September semiannual anniversary month. *See Antidumping Duty Order: Certain Hot-Rolled Flat-Rolled Carbon Quality Steel*