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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-351-849, A-580-890, A-201-848, A-455-805]

### **Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, Mexico, and Poland: Initiation of Less-Than-Fair-Value Investigations**

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective August 10, 2016.

FOR FURTHER INFORMATION CONTACT: Drew Jackson at (202) 482-4406 (Brazil); Frances Veith at (202) 482-4295 (Republic of Korea); Julia Hancock or Javier Barrientos at (202) 482-1394 or (202) 482-2243, respectively (Mexico); and Stephen Bailey or William Horn at (202) 482-0193 or (202) 482-2615, respectively (Poland), AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### The Petitions

On July 21, 2016, the Department of Commerce (the Department) received antidumping duty (AD) petitions concerning imports of emulsion styrene-butadiene rubber (ESB rubber) from Brazil, the Republic of Korea (Korea), Mexico, and Poland, filed in proper form on behalf of Lion Elastomers LLC and East West Copolymer, LLC (Petitioners).<sup>1</sup> Petitioners are domestic producers of ESB rubber.<sup>2</sup>

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<sup>1</sup> See Petitions for the Imposition of Antidumping Duties on Imports of Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, Mexico, and Poland, dated July 21, 2016 (the Petitions).

<sup>2</sup> See Petitions, at 2, and Exhibits I-1 and I-2.

On July 25, 26, and August 2, 2016, the Department requested additional information and clarification of certain areas of the Petitions.<sup>3</sup> Petitioners filed responses to these requests on August 1 and 3, 2016, respectively.<sup>4</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), Petitioners allege that imports of ESB rubber from Brazil, Korea, Mexico, and Poland are being,

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<sup>3</sup> See Letter from the Department to Petitioners entitled “Petitions for the Imposition of Antidumping Duties on Imports of Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, Mexico, and Poland: Supplemental Questions,” dated July 25, 2016 (General Issues Supplemental Questionnaire); *see also* Letter from the Department to Petitioners entitled “Petition for the Imposition of Antidumping Duties on Imports of Emulsion Styrene-Butadiene Rubber from Brazil: Supplemental Questions,” dated July 26, 2016 (Brazil Supplemental Questionnaire); *see also* Letter from the Department to Petitioners entitled “Petition for the Imposition of Antidumping Duties on Imports of Emulsion Styrene-Butadiene Rubber from Republic of Korea: Supplemental Questions,” dated July 26, 2016 (Korea Supplemental Questionnaire); *see also* Letter from the Department to Petitioners entitled “Petition for the Imposition of Antidumping Duties on Imports of Emulsion Styrene-Butadiene Rubber from Mexico: Supplemental Questions,” dated July 26, 2016 (Mexico Supplemental Questionnaire); *see also* Letter from the Department to Petitioners entitled “Petition for the Imposition of Antidumping Duties on Imports of Emulsion Styrene-Butadiene Rubber from Mexico: Supplemental Questions,” dated July 26, 2016 (Poland Supplemental Questionnaire); *see also* Memorandum to the File from Drew Jackson, Senior International Trade Compliance Analyst, Office IV, Re: “Petitions for the Imposition of Antidumping Duties on Imports of Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, Mexico, and Poland, Subject: Telephone Conversation with Petitioners’ Counsel,” dated August 2, 2016 (Memorandum on Telephone Conversation with Petitioners’ Counsel re: Scope); *see also* Memorandum to the File from Vicki Flynn, Senior Policy Analyst, Office of Policy, Re: “Petitions for the Imposition of Antidumping Duties on Imports of Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, Mexico, and Poland, Subject: Telephone Conversation with Petitioners’ Counsel,” dated August 2, 2016 (Memorandum on Telephone Conversation with Petitioners’ Counsel re: Scope and Other Issues).

<sup>4</sup> See Letter from Petitioners to the Department entitled “Re: Emulsion Styrene-Butadiene Rubber from Brazil, Republic of Korea, Mexico, and Poland: Supplemental Questionnaire Response Regarding the Antidumping Petition - General Questions,” dated August 1, 2016 (General Issues Supplement); *see also* Letter from Petitioners to the Department entitled “Re: Emulsion Styrene-Butadiene Rubber from Brazil: Supplemental Questionnaire Response Regarding the Antidumping Petition - General Questions,” dated August 1, 2016 (Brazil Supplement); *see also* Letter from Petitioners to the Department entitled “Re: Emulsion Styrene-Butadiene Rubber from Republic of Korea: Supplemental Questionnaire Response Regarding the Antidumping Petition - General Questions,” dated August 1, 2016 (Korea Supplement); *see also* Letter from Petitioners to the Department entitled “Re Emulsion Styrene-Butadiene Rubber from Mexico: Supplemental Questionnaire Response Regarding the Antidumping Petition - General Questions,” dated August 1, 2016 (Mexico Supplement); *see also* Letter from Petitioners to the Department entitled “Re: Emulsion Styrene-Butadiene Rubber from Poland: Supplemental Questionnaire Response,” dated August 1, 2016 (Poland Supplement); *see also* Letter from Petitioners to the Department entitled “Re: Amended Petitions for the Imposition of Antidumping Duties on Imports of Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, Mexico, and Poland,” dated August 1, 2016 (Amended Petitions); *see also* Letter from Petitioners to the Department entitled “Re: Revised Amended Petitions for the Imposition of Antidumping Duties on Imports of Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, Mexico, and Poland,” dated August 3, 2016 (Revised Amended Petitions); *see also* Letter from Petitioners to the Department entitled “Amendment to Correct Erroneous Deletion of Exhibit from Re: Amended Petitions for the Imposition of Antidumping Duties on Imports of Emulsion Styrene -Butadiene Rubber from Brazil, the Republic of Korea, Mexico, and Poland,” dated August 3, 2016; Letter from Petitioners to the Department entitled “Amendment to Petition For The Imposition of Antidumping Duties on Emulsion Styrene Butadiene Rubber from Brazil, the Republic of Korea, Mexico, and Poland – Revised Scope,” dated August 3, 2016 (Scope Amendment).

or are likely to be, sold in the United States at less-than-fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, Petitioners state that the Petitions are accompanied by information reasonably available to Petitioners supporting their allegations.

The Department finds that Petitioners filed these Petitions on behalf of the domestic industry because Petitioners are interested parties as defined in section 771(9)(C) of the Act. The Department also finds that Petitioners demonstrated sufficient industry support with respect to the initiation of the AD investigations that Petitioners are requesting.<sup>5</sup>

#### Period of Investigation

Because the Petitions were filed on July 21, 2016, the period of investigation (POI) for each investigation is, pursuant to 19 CFR 351.204(b)(1), July 1, 2015, through June 30, 2016.

#### Scope of the Investigations

The product covered by these investigations is ESB rubber from Brazil, Korea, Mexico, and Poland. For a full description of the scope of these investigations, *see* the “Scope of the Investigations,” at Appendix I of this notice.

#### Comments on Scope of the Investigations

During our review of the Petitions, the Department issued questions to, and received responses from, Petitioners pertaining to the proposed scope to ensure that the scope language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief.<sup>6</sup> The Department also conducted two telephone calls with Petitioners to clarify

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<sup>5</sup> *See* the “Determination of Industry Support for the Petitions” section below.

<sup>6</sup> *See* General Issues Supplemental Questionnaire and August 2, 2016, Memorandum on Telephone Conversation with Petitioners’ Counsel; *see also* General Issues Supplement; and Scope Amendment.

Petitioners' intent with respect to the scope.<sup>7</sup> In response, Petitioners provided a revised scope on August 3, 2016.<sup>8</sup>

As discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope). The Department will consider all comments received from parties and, if necessary, will consult with parties prior to the issuance of the preliminary determinations. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. In order to facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Daylight Time (EDT) on August 30, 2016, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information (also should be limited to public information), must be filed by 5:00 p.m. EDT on September 9, 2016, which is 10 calendar days after the initial comments. All such comments must be filed on the records of each of the concurrent AD investigations.

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. As stated above, all such comments must be filed on the records of each of the concurrent AD investigations.

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<sup>7</sup> *See* Memorandum on Telephone Conversation with Petitioners' Counsel re: Scope; *see also* Memorandum on Telephone Conversation with Petitioners' Counsel re: Scope and Other Issues.

<sup>8</sup> *See* Scope Amendment.

## Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>9</sup> An electronically filed document must be received successfully in its entirety by the time and date when it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

## Comments on Product Characteristics for AD Questionnaires

The Department will be giving interested parties an opportunity to provide comments on the appropriate physical characteristics of ESB rubber to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to report the relevant costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: 1) general product characteristics and 2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on

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<sup>9</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe ESB rubber, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 P.M. EDT on August 30, 2016, which is 20 calendar days from the signature date of this notice. Any rebuttal comments must be filed by 5:00 P.M. EDT on September 9, 2016. All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the records of each of the concurrent AD investigations.

#### Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as

required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,<sup>10</sup> they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.<sup>11</sup>

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioners do not offer a definition of the domestic like product distinct from the scope of the investigations as described in Appendix I of this notice. Based on our analysis of the information submitted on the record, we have

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<sup>10</sup> See section 771(10) of the Act.

<sup>11</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

determined that ESB rubber, as defined in the “Scope of the Investigations” in Appendix I of this notice, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>12</sup>

In determining whether Petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in Appendix I of this notice. To establish industry support, Petitioners provided their 2015 production of the domestic like product and estimated the 2015 production of Goodyear Chemical, the only other known ESB rubber producer in the United States.<sup>13</sup> Petitioners also provided a letter from the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (USW), stating that the USW represents the workers at Petitioner Lion Elastomers LLC’s Port Neches, TX ESB rubber plant and it supports the Petitions.<sup>14</sup> In addition, Petitioners provided a letter of support for the Petitions from the International Union of Operating Engineers (IUOE) stating that the IUOE represents the workers at Petitioner East West Copolymer, LLC’s ESB rubber plant in Baton Rouge, LA and the workers at Goodyear Chemical’s Houston, TX ESB rubber plant.<sup>15</sup> Petitioners state that Lion

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<sup>12</sup> For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Emulsion Styrene-Butadiene Rubber from Brazil (Brazil AD Checklist), at Attachment II, Analysis of Industry Support for the Antidumping Duty Petitions Covering Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, Mexico, and Poland (Attachment II); Antidumping Duty Investigation Initiation Checklist: Emulsion Styrene-Butadiene Rubber from the Republic of Korea (Korea AD Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Emulsion Styrene-Butadiene Rubber from Mexico (Mexico AD Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Emulsion Styrene-Butadiene Rubber from Poland (Poland AD Checklist), at Attachment II. These checklists are dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

<sup>13</sup> *See* Petitions, at 3-4 and Exhibits I-3, I-5, and I-7; *see also* General Issues Supplement, at 2-3; and Revised Amended Petitions, at 3-4 and revised Exhibit I-7.

<sup>14</sup> *See* Petitions, at Exhibit I-6.

<sup>15</sup> *See* Letter from Petitioners entitled “Supplement 1 to Petition for the Imposition of Antidumping Duties on Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, Mexico, and Poland,” July 21, 2016

Elastomers LLC, East West Copolymer, LLC, and Goodyear Chemical are the only known producers of ESB rubber in the United States; therefore, Petitioners assert that the Petitions are supported by 100 percent of the U.S. industry.<sup>16</sup>

Our review of the data provided in the Petitions, IUOE Letter, General Issues Supplement, Amended Petitions, and other information readily available to the Department indicates that Petitioners have established industry support.<sup>17</sup> First, the Petitions established support from domestic producers and workers accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).<sup>18</sup> Second, the domestic producers and workers have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers and workers who support the Petitions account for at least 25 percent of the total production of the domestic like product.<sup>19</sup> Finally, the domestic producers and workers have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers and workers who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.<sup>20</sup>

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(IUOE Letter), at Attachment.

<sup>16</sup> See Petitions, at 3-4; see also Revised Amended Petitions, at 3-4. We note that management at Goodyear Chemical did not express a view with respect to the Petitions; therefore, pursuant to 19 C.F.R. § 351.203(e)(3), because the workers of Goodyear Chemical support the Petitions through their union, we are treating the production of Goodyear Chemical as in support of the Petitions.

<sup>17</sup> For a further discussion of the industry support analysis, see Brazil AD Initiation Checklist, at Attachment II, Korea AD Initiation Checklist, at Attachment II, Mexico AD Initiation Checklist, at Attachment II, and Poland AD Initiation Checklist, at Attachment II.

<sup>18</sup> See section 732(c)(4)(D) of the Act; see also Brazil AD Initiation Checklist, at Attachment II, Korea AD Initiation Checklist, at Attachment II, Mexico AD Initiation Checklist, at Attachment II, and Poland AD Initiation Checklist, at Attachment II.

<sup>19</sup> See Brazil AD Initiation Checklist, at Attachment II, Korea AD Initiation Checklist, at Attachment II, Mexico AD Initiation Checklist, at Attachment II, and Poland AD Initiation Checklist, at Attachment II.

<sup>20</sup> *Id.*

Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that Petitioners filed the Petitions on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the AD investigations that they are requesting the Department initiate.<sup>21</sup>

#### Allegations and Evidence of Material Injury and Causation

Petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than normal value (NV).

In addition, with regard to Brazil, Korea, and Mexico, Petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>22</sup> With regard to Poland, while the allegedly dumped imports from Poland do not exceed the statutory requirements for negligibility, Petitioners allege and provide supporting evidence that there is the potential that imports from Poland will imminently exceed the negligibility threshold and, therefore, are not negligible for purposes of a threat determination, pursuant to section 771(24)(A)(iv) of the Act.<sup>23</sup> Petitioners also contend that, although publicly available import data is limited, there is a reasonable indication that data obtained in the ITC's investigation will establish that imports exceed the negligibility threshold.<sup>24</sup> Petitioners' arguments regarding the limitations of publicly available import data and the collection of import data in the ITC's

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<sup>21</sup> See Brazil AD Initiation Checklist, at Attachment II, Korea AD Initiation Checklist, at Attachment II, Mexico AD Initiation Checklist, at Attachment II, and Poland AD Initiation Checklist, at Attachment II.

<sup>22</sup> See General Issues Supplement, at 8-9; see also Revised Amended Petitions, at 14-15 and revised Exhibit I-12.

<sup>23</sup> See section 771(24)(A)(iv) of the Act; see also General Issues Supplement, at 8-9.

<sup>24</sup> See *Statement of Administrative Action* (SAA), H.R. Doc. No. 103-316, Vol. 1, (1994) (SAA), at 857; see also General Issues Supplement, at 8-9; and Revised Amended Petitions, at 14-15.

investigation are consistent with the SAA, which states that the ITC may make reasonable estimates on the basis of available data to address limitations in data collected by the ITC or official import statistics.<sup>25</sup> Furthermore, Petitioners' arguments regarding the potential for imports from Poland to imminently exceed the negligibility threshold are consistent with the statutory criteria for "negligibility in threat analysis" under section 771(24)(A)(iv) of the Act, which provides that imports shall not be treated as negligible if there is a potential that subject imports from a country will imminently exceed the statutory requirements for negligibility.

Petitioners contend that the industry's injured condition is illustrated by reduced market share, underselling and price suppression or depression, lost sales and revenues, declines in production, capacity utilization, and U.S. shipments, negative impact on employment variables, and declines in financial performance, capital expenditures, and research and development expenditures.<sup>26</sup> We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, negligibility, causation, and cumulation, and we have determined that Petitioners' allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.<sup>27</sup>

#### Allegations of Sales at Less-Than-Fair Value

The following is a description of the allegations of sales at less-than-fair value upon which the Department based its decision to initiate investigations of imports of ESB rubber from Brazil, Korea, Mexico, and Poland. The sources of data for the deductions and adjustments

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<sup>25</sup> See SAA, H.R. Doc. No. 103-316 at 833 (1994).

<sup>26</sup> See Petitions, at 12-16, 24-53 and Exhibits I-1, I-2, I-5, I-7, I-8, I-12, I-13 and I-16 through I-34; see also General Issues Supplement, at 7; and Revised Amended Petitions, at 12-16, 24-53 and revised Exhibits I-12, I-16, and I-17.

<sup>27</sup> See Brazil AD Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping Duty Petitions Covering Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, Mexico, and Poland (Attachment III); see also Korea AD Checklist, at Attachment III; Mexico AD Checklist, at Attachment III; and Poland AD Checklist, at Attachment III.

relating to U.S. price and NV are discussed in greater detail in the country-specific initiation checklists.

### Export Price

For Brazil, Korea, Mexico, and Poland, Petitioners based export price (EP) on average unit values (AUVs) calculated using publicly available import statistics from the ITC's Dataweb for all imports from each subject country under the relevant Harmonized Tariff Schedule of the United States (HTSUS) subheading for imports of ESB rubber into all U.S. ports during the POI.<sup>28</sup> For Brazil, Korea, and Poland, Petitioners also based EP on transaction-specific AUVs for shipments of ESB rubber identified from each of these countries entered under the relevant HTSUS subheading for one month during the POI into a specific port.<sup>29</sup> Under this methodology,<sup>30</sup> Petitioners obtained ship manifest data from Datamyne, Inc. U.S., and Petitioners then linked monthly U.S. port-specific import statistics (obtained from the ITC's Dataweb), for imports of ESB rubber entered under the relevant HTSUS subheading to shipments by producers in the subject countries identified in the ship manifest data.<sup>31</sup>

Under both methodologies, to calculate ex-factory prices and to be conservative, Petitioners made no adjustments to U.S. price for movement expenses, consistent with the manner in which the data is reported in Dataweb.<sup>32</sup>

### Normal Value Based on Constructed Value

For Brazil, Korea, Mexico, and Poland, Petitioners were unable to obtain information regarding home market prices, such as price quotes for ESB rubber, or third-country prices, and

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<sup>28</sup> See Brazil AD Initiation Checklist, Korea AD Initiation Checklist, Mexico AD Initiation Checklist, and Poland AD Initiation Checklist.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

therefore calculated NV based on constructed value (CV).<sup>33</sup> Pursuant to section 773(e) of the Act, CV consists of the cost of manufacturing (COM), SG&A expenses, financial expenses, packing expenses, and profit. Petitioners calculated COM based on Petitioners' experience, adjusted for known differences between producing in the United States and producing in the respective country (*i.e.*, Brazil, Korea, Mexico, or Poland), during the proposed POI.<sup>34</sup> Using publicly-available data to account for price differences, Petitioners multiplied the surrogate usage quantities by the submitted value of the inputs used to manufacture ESB rubber in each country.<sup>35</sup> For Brazil, Korea, Mexico, and Poland, labor rates were derived from publicly available sources multiplied by the product-specific usage rates.<sup>36</sup> For Brazil, Korea, Mexico, and Poland, to determine factory overhead and packing, Petitioners relied on Petitioners' experience.<sup>37</sup> For Brazil, Korea, Mexico, and Poland, to determine SG&A and financial expense rates, Petitioners relied on financial statements of companies that were producers of identical or comparable merchandise operating in the respective subject country.<sup>38</sup> Petitioners also relied on the financial statements of the same producers that they used for calculating SG&A expenses and financial expenses to calculate the profit rate.<sup>39</sup>

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<sup>33</sup> See Brazil AD Initiation Checklist, Korea AD Initiation Checklist, Mexico AD Initiation Checklist, and Poland AD Initiation Checklist. In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for all of the investigations, the Department will request information necessary to calculate the cost of production (COP) and CV to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. The Department will no longer require a COP allegation to conduct this analysis.

<sup>34</sup> See Brazil AD Initiation Checklist, Korea AD Initiation Checklist, Mexico AD Initiation Checklist, and Poland AD Initiation Checklist.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

### Fair Value Comparisons

Based on the data provided by Petitioners, there is reason to believe that imports of ESB rubber from Brazil, Korea, Mexico, and Poland, are being, or are likely to be, sold in the United States at less-than-fair value. Based on comparisons of EP to NV in accordance with sections 773(a) and (e) of the Act, the estimated dumping margin(s) for ESB rubber are as follows: 1) Brazil, 57.14 percent and 67.99 percent;<sup>40</sup> 2) Korea, 22.48 percent and 44.30 percent;<sup>41</sup> 3) Mexico, 22.39 percent;<sup>42</sup> and 4) Poland, 40.57 percent and 44.54 percent.<sup>43</sup>

### Initiation of Less-than-Fair-Value Investigations

Based upon the examination of the AD Petitions on ESB rubber from Brazil, Korea, Mexico, and Poland, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of ESB rubber for Brazil, Korea, Mexico, and Poland are being, or are likely to be, sold in the United States at less-than-fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015, which made numerous amendments to the AD and countervailing duty (CVD) law.<sup>44</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments

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<sup>40</sup> See Brazil AD Initiation Checklist.

<sup>41</sup> See Korea AD Initiation Checklist.

<sup>42</sup> See Mexico AD Initiation Checklist.

<sup>43</sup> See Poland AD Initiation Checklist.

<sup>44</sup> See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>45</sup> The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to these AD investigations.<sup>46</sup>

### Respondent Selection

Based on shippers' manifest information from the Datamyne, Inc. U.S., Petitioners identified 11 companies in Korea as producers of ESB rubber.<sup>47</sup> Following standard practice in AD investigations involving market economy countries, in the event the Department determines that the number of companies is large and it cannot individually examine each company based upon the Department's resources, where appropriate, the Department intends to select respondents for the Korea investigation based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States numbers listed with the "Scope of the Investigations," in Appendix I, below. We also intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO on the record within five business days of publication of this *Federal Register* notice. Comments regarding the CBP data and respondent selection should be submitted seven calendar days after the placement of the CBP data on the record of the Korea investigation. Parties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for the initial comments.

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<sup>45</sup> See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*).

<sup>46</sup> *Id.*, at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

<sup>47</sup> See Petitions, at 11-12 and Exhibit I-11.

With respect to Brazil, Mexico, and Poland, based on shippers' manifest information from the Datamyne, Inc. U.S., Petitioners identified: 1) one company as a producer/exporter of ESB in Brazil, Lanxess Elastomeros do Brasil S.A.; 2) one company as a producer/exporter of ESB in Mexico, Industrias Negromex S.A. de C.V.—Planta Altamira; and 3) one company as a producer/exporter of ESB in Poland, Synthos Dwory 7 Spolka Z Ograniczona Odpowiedzialnoscia Spolka Jawna (Sp. Z O.O.S.J.).<sup>48</sup> With respect to Brazil, Mexico, and Poland, Petitioners provided additional information from independent third party sources as support.<sup>49</sup> Furthermore, we currently know of no additional producers/exporters of merchandise under consideration from these countries. Therefore, consistent with section 777A(c) of the Act and the Department's practice in such circumstances,<sup>50</sup> for Brazil, Mexico, and Poland the Department intends to examine the sole producer/exporter identified in the respective Petitions. Comments regarding respondent selection for each of these AD investigations (*i.e.*, Brazil, Mexico, and Poland) should be submitted five calendar days after the publication of this notice in the *Federal Register* on the record of each respective investigation. Parties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for the initial comments.

Comments for the above-referenced investigations must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. EDT by the dates noted above. We intend to finalize our decision regarding respondent selection within 20 days of publication of this notice.

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<sup>48</sup> See Petitions, at Exhibits I-5 and I-11; see also General Issues Supplement, at 3-4 and Attachment 1.

<sup>49</sup> See Petitions, at Exhibit I-11; see also General Issues Supplement, at 3-4 and Attachment 1. *Id.*

<sup>50</sup> See, e.g., *Melamine From the People's Republic of China and Trinidad and Tobago: Initiation of Less-Than-Fair-Value Investigations*, 79 FR 73037, 73041 (December 9, 2014).

### Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of Brazil, Korea, Mexico, and Poland via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

### ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

### Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of ESB rubber from Brazil, Korea, Mexico, and/or Poland are materially injuring or threatening material injury to a U.S. industry.<sup>51</sup> A negative ITC determination for any country will result in the investigation being terminated with respect to that country;<sup>52</sup> otherwise, these investigations will proceed according to statutory and regulatory time limits.

### Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i) through (iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR

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<sup>51</sup> See section 733(a) of the Act.

<sup>52</sup> *Id.*

351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Please review the regulations prior to submitting factual information in these investigations.

#### Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under Part 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under Part 351 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this segment.

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>53</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of Petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.<sup>54</sup> The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

### Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

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<sup>53</sup> See section 782(b) of the Act.

<sup>54</sup> See *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at [http://enforcement.trade.gov/tlei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf).

This notice is issued and published pursuant to section 777(i) of the Act and 19 CFR 351.203(c).

Dated: August 10, 2016.

Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

## **Appendix I**

### **Scope of the Investigations**

For purposes of these investigations, the product covered is cold-polymerized emulsion styrene-butadiene rubber (ESB rubber). The scope of the investigations includes, but is not limited to, ESB rubber in primary forms, bales, granules, crumbs, pellets, powders, plates, sheets, strip, etc. ESB rubber consists of non-pigmented rubbers and oil-extended non-pigmented rubbers, both of which contain at least one percent of organic acids from the emulsion polymerization process.

ESB rubber is produced and sold in accordance with a generally accepted set of product specifications issued by the International Institute of Synthetic Rubber Producers (IISRP). The scope of the investigations covers grades of ESB rubber included in the IISRP 1500 and 1700 series of synthetic rubbers. The 1500 grades are light in color and are often described as "Clear" or "White Rubber." The 1700 grades are oil-extended and thus darker in color, and are often called "Brown Rubber."

Specifically excluded from the scope of these investigations are products which are manufactured by blending ESB rubber with other polymers, high styrene resin master batch, carbon black master batch (*i.e.*, IISRP 1600 series and 1800 series) and latex (an intermediate product).

The products subject to these investigations are currently classifiable under subheadings 4002.19.0015 and 4002.19.0019 of the Harmonized Tariff Schedule of the United States (HTSUS). ESB rubber is described by Chemical Abstract Services (CAS) Registry No. 9003-55-8. This CAS number also refers to other types of styrene butadiene rubber. Although the HTSUS subheadings and CAS registry number are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

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