address, and telephone number; 2) the number of participants; and 3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c). Unless the Department receives a request for a postponement pursuant to section 735(a)(2) of the Act, the Department will make its final determination no later than 75 days after the date of this preliminary determination. *See* section 735(a)(1) of the Act.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. In addition, we are making available to the ITC all non–privileged and non–proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration. If the final determination in this proceeding is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of lemon juice from Argentina materially injure, or threaten material injury to, the U.S. industry. *See* section 735(b)(2) of the Act.

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

Dated: April 19, 2007.

Joseph A. Spetrini,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E7–8015 Filed 4–25–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–835]

Notice of Preliminary Determinations of Sales at Less Than Fair Value and of Critical Circumstances in Part: Lemon Juice from Mexico

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

SUMMARY: We preliminarily determine that imports of lemon juice from Mexico are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 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 the imports of lemon juice from Mexico for one respondent. Interested parties are invited to comment on this preliminary determination. We will make our final determination within 75 days after the date of this preliminary determination.

FOR FURTHER INFORMATION CONTACT: George Callen or Minoo Hatten, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0180 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 11, 2006, the Department of Commerce (the Department) initiated antidumping investigations of lemon juice from Argentina and Mexico. See *Initiation of Antidumping Duty Investigations: Lemon Juice from Argentina and Mexico*, 71 FR 61710 (October 19, 2006) (*Initiation Notice*). The Department set aside a period for all interested parties to raise issues regarding product coverage. The Department encouraged all interested parties to submit such comments within 20 days from publication of the initiation notice, that is, by November 8, 2006. See *Initiation Notice*; see also *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19,1997) (*Final Rule*).

On November 6, 2006, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of lemon juice from Argentina and Mexico are materially injuring the U.S. industry and the ITC notified the Department of its findings. See *Lemon Juice From Argentina and Mexico, Investigation Nos. 731–TA–1105 1106 (Preliminary)*, 71 FR 66795 (November 16, 2006) (*ITC Preliminary Report*).

On February 8, 2007, we postponed the deadline for the preliminary determinations under section 733(c)(1)(A) of the Tariff Act of 1930, as amended (the Act), by 50 days to April 19, 2007. See *Postponement of Preliminary Determinations of Antidumping Duty Investigations: Lemon Juice from Argentina and Mexico*, 72 FR 7606 (February 16, 2007).

On March 30, 2007, Sunkist Growers Inc. (the petitioner) alleged that, in accordance with 19 CFR 351.206, critical circumstances existed with regard to imports of lemon juice from Argentina and Mexico.

Period of Investigation

The period of investigation (POI) is July 1, 2005, through June 30, 2006. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition.

Scope of Investigation

The merchandise covered by this investigation includes certain lemon juice for further manufacture, with or without addition of preservatives, sugar, or other sweeteners, regardless of the GPL (grams per liter of citric acid) level of concentration, brix level, brix/acid ratio, pulp content, clarity, grade, horticulture method (e.g., organic or not), processed form (e.g., frozen or not–from-concentrate), FDA standard of identity, the size of the container in which packed, or the method of packing.

Excluded from the scope are: (1) lemon juice at any level of concentration packed in retail–sized containers ready for sale to consumers, typically at a level of concentration of 48 GPL; and (2) beverage products such as lemonade that typically contain 20% or less lemon juice as an ingredient.

Lemon juice is classifiable under subheadings 2009.39.6020, 2009.31.6020, 2009.31.4000, 2009.31.6040, and 2009.39.6040 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Comments

In accordance with the preamble to our regulations (see *Final Rule*), we set aside a period of time for parties to raise issues regarding product coverage in the Initiation Notice and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. We did not receive comments from any interested parties in the Mexico investigation. On November 1, 2006, we received comments from Citromax S.A.C.I. (Citromax), an interested party in the Argentina investigation. On November 8, 2006, the Department received rebuttal comments from the petitioner on the Citromax submission. As discussed further in the March 21, 2007, memorandum entitled ''Scope Issue in the Antidumping Duty Investigations on Lemon Juice from Argentina and Mexico'' on file in Import Administration's Central Records Unit (CRU), Room 1870, U.S. Department of Commerce, 14th Street and Constitution

Avenue, NW, Washington, DC 20230, we are continuing to include organic lemon juice in the scope of the antidumping duty investigations of lemon juice from Argentina and Mexico.

Respondent Selection

Section 777A(c)(1) of the Act directs the Department to calculate individual weighted–average dumping margins for each known exporter and producer of the subject merchandise. Section 777A(c)(2) of the Act also gives the Department discretion to examine a reasonable number of such exporters and producers when it is not practicable to examine all exporters and producers. In order to identify the universe of producers/exporters in Mexico to investigate for purposes of this less–than-fair–value investigation on lemon juice, we analyzed information from various sources, including data from U.S. Customs and Border Protection (CBP).

Using information obtained from the petition, an internet search, and a request to the U.S. Embassy in Mexico in addition to CBP statistical information on U.S. imports of lemon juice during the POI, we identified three respondents accounting for approximately 95 percent of the POI imports from Mexico: Citrofrut Veracruz (Citrofrut), Citrotam Internacional S.P.R. de R.L. (Citrotam), and Coca–Cola FEMSA, S.A. de C.V.[1] For a detailed analysis of our respondent–selection procedure, see ''Antidumping Duty Investigation on Lemon Juice from Mexico Respondent Selection,'' dated November 7, 2006, on file in the CRU.

Citrofrut

On November 20, 2006, we issued a questionnaire to Citrofrut requesting that it respond to section A of the questionnaire by December 11, 2006. Because Citrofrut did not respond by this due date, we sent a letter on December 13, 2006, in which we informed the company that we had not received a response from it despite confirmation from FedEx that Citrofrut had received the questionnaire. We informed Citrofrut further that, if it intended to respond to the questionnaire, it should do so by December 20, 2006. On December 14, 2006, Citrofrut submitted documentation demonstrating that it exports lime juice but not lemon juice from Mexico to the United States. The petitioner did not comment.

We find that the supporting documentation submitted by Citrofrut is sufficient to demonstrate its assertion that it only exports lime juice. On August 6, 2006, before the petition was filed, Citrofrut's broker in the United States filed post–summary adjustment documents with CBP to address the incorrect classification it had used on certain entries at the time of entry. We have confirmed that CBP has accepted the reclassification claim with respect to imports from Citrofrut. Therefore, we preliminarily determine that Citrofrut is no longer a mandatory respondent in the investigation of lemon juice from Mexico. If it begins to export lemon juice, its exports will be subject to the all–others cash–deposit rate.

Use of Adverse Facts Available

For the reasons discussed below, we determine that the use of adverse facts available (AFA) is appropriate for the preliminary determination with respect to Citrotam.

A. Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that, if the administering authority determines that a response to a request for information does not comply with the request, the administering authority shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Act states further 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; (5) the information can be used without undue difficulties. On November 7, 2006, we mailed a package to Citrotam via Federal Express (FedEx) containing a copy of the respondent–selection memorandum and a request for model–match comments. Based on information we found on the internet we addressed the package to Citrotam's general manager (GM). FedEx reported that it was not able to deliver the package to Citrotam because it had been told that the company had moved from the location for which we had provided an address. We continued our efforts to locate Citrotam, including working with the U.S. Embassy in Mexico City, as well as obtaining contact information for Citrotam from the Embassy of Mexico in Washington, DC. We obtained information indicating that Citrotam is out of business and has been replaced by a new firm, Productos Naturales de Citricos (Pronacit), which may be using the former location of Citrotam to do business and has the same GM as Citrotam.

On November 21, 2006, after many attempts, when we finally contacted the GM, he confirmed that the new name for Citrotam is Pronacit. He also confirmed to the Embassy of Mexico in Washington, DC, that Citrotam had changed its name to Pronacit. See e–mail message dated December 12, 2006, attached to the Memorandum to the File entitled ''Efforts to Contact Citrotam Internacional, S.P.R. De R.L.,'' dated February 20, 2007 (Citrotam Memo). As discussed in detail in the Citrotam Memo, we made additional efforts to contact the GM to obtain an address for Pronacit. When FedEx was unable to deliver the package to the address provided by the GM to the Embassy of Mexico, we attempted to contact the GM again and spoke with the GM's assistant. On January 12, 2007, at the suggestion of the GM's assistant, we sent a letter to the assistant's residence containing questions pertaining to successor–in-interest status, as well as our antidumping duty questionnaire and other documents requesting that Citrotam/Pronacit respond by January 26, 2007. We confirmed that the package was delivered to the assistant's residence on January 16, 2007. We have received no response. See Citrotam Memo.

Citrotam/Pronacit failed to respond to our detailed requests for information regarding successorship. Pursuant to section 776(a) of the Act, we find that Citrotam/Pronacit withheld information that we requested, failed to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, and significantly impeded a

[1] In an entry of appearance, dated November 15, 2006, The Coca-Cola Company and a subsidiary, The Coca-Cola Export Corporation, Mexico Branch (collectively Coca-Cola), clarified that it, rather than Coca-Cola FEMSA, S.A. de C.V., was the foreign producer and exporter of the subject merchandise under investigation.

proceeding under this title. Therefore, we are resorting to the use the facts otherwise available in reaching the applicable determination. We preliminarily find that the facts available, including statements from the GM, U.S. Embassy officials in Mexico, and Embassy of Mexico officials, support the conclusion that Pronacit is the successor to Citrotam. Moreover, because Citrotam/Pronacit failed to respond to any of our requests for information, we are relying on facts otherwise available to assign a dumping margin to Citrotam/Pronacit.

B. Application of Adverse Inferences for Facts Available

In selecting from among the facts otherwise available, section 776(b) of the Act provides that, if the administering authority finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority, in reaching the applicable determination under this title, the administering authority may use an inference adverse to the interests of that party in selecting from among the facts otherwise available. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Circular Welded Carbon–Quality Line Pipe From Mexico*, 69 FR 59892 (October 6, 2004); see also *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Prestressed Concrete Steel Wire Strand From Mexico*, 68 FR 42378 (July 17, 2003).

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. Doc. No. 103–316, at 870 (1994) (SAA). Furthermore, ''affirmative evidence of bad faith, or willfulness, on the part of a respondent is not required before the Department may make an adverse inference.'' See *Final Rule*.

Because we have preliminarily determined under section 776(a) of the Act that Pronacit is the successor to Citrotam and because, in refusing to respond to our requests for information, Citrotam/Pronacit has failed to cooperate to the best of its ability, we find that the application of an AFA rate for Citrotam/Pronacit is warranted in this preliminary determination.

The Department finds that Citrotam/Pronacit failed to cooperate to the best of its ability because it continued to be non–responsive despite numerous attempts to obtain information. See Citrotam Memo. Consequently, the Department has preliminarily determined that, in selecting from among the facts otherwise available, an adverse inference is warranted. See section 776(b) of the Act; see also *Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000), where the Department applied total AFA because the respondents failed to respond to the antidumping questionnaire.

If, however, within 30 days after issuance of this preliminary determination, Pronacit is able to demonstrate on the record of the investigation that it is not the successor to Citrotam and cooperates fully during the remainder of the investigation, the Department may reconsider this issue for purposes of the final determination.

C. Selection of Information Used as Facts Available

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. See also 19 CFR 351.308(c) and the SAA at 829–831. In this case, because we are unable to calculate a margin for Citrotam/Pronacit and because an adverse inference is warranted, we have assigned to Citrotam/Pronacit the highest product–specific margin, 205.37 percent, which we have calculated in this investigation based on the data reported by a respondent.

Date of Sale

Section 351.401(i) of the Department's regulations states that the Department will normally use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The Department may use a date other than the date of invoice if the alternative better reflects the date on which the material terms of sales (*e.g.*, price and quantity) are established.

Coca–Cola stated in its responses that the essential terms of sale did not change once it accepted a purchase order but indicated that sometimes it received the purchase order after shipment had occurred. In its U.S. sales database, Coca–Cola reported sales based on invoice dates during the POI and, when shipment dates preceded invoicing, on shipment dates. Based on its comment that the essential terms of sale do not change once a purchase order is accepted, we asked Coca–Cola to report sales based on the purchase–order date or, when a shipment preceded the purchase–order date, the shipment date as date of sale. Because we did not receive this information in time for inclusion in this preliminary determination, we have used Coca–Cola's reported invoice date or, where the shipment preceded invoicing, the shipment date as the date of sale for the preliminary determination.

We will examine the information submitted by Coca–Cola with respect to its purchase order; we will also examine this issue at verification and incorporate our findings in our analysis for the final determination.

Fair–Value Comparisons

To determine whether Coca–Cola's sales of lemon juice from Mexico to the United States were made at less than fair value during the POI, we compared the export price or constructed export price (CEP) to normal value, as described in the ''U.S. Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared the weighted–average export prices and CEPs to normal value which, in this case, is constructed value (CV). In our comparisons, we offset the average–to-average comparisons of U.S prices and constructed values by any non–dumped comparisons. This approach comports with the methodology for investigations that we set forth in *Antidumping Proceedings: Calculation of the Weighted–Average Dumping Margin During an Antidumping Investigation; Final Modification*, 71 FR 77722 (December 27, 2006).

U.S. Price

Section 772(a) of the Act defines export price as the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter outside the United States to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c). During the POI, Coca–Cola produced and sold subject merchandise to the first unaffiliated purchaser in the United States prior to importation. For sales of this merchandise, we have applied the export–price methodology.

Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold (or agreed to be 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 (c) and (d). In addition to export–price sales, Coca–Cola also had CEP sales because it sold some subject merchandise to the first unaffiliated purchaser in the United States after the date of importation of the merchandise. Thus, we have applied the CEP methodology to these sales.

We based export price and CEP on the packed price to unaffiliated purchasers in the United States. We made deductions, as appropriate, for billing adjustments. We also made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Act. Accordingly, we made deductions for foreign inland freight from the processing plant to the Mexican border and brokerage expenses incurred in Mexico for all sales. For CEP sales, we also made deductions for U.S. brokerage expenses, U.S. warehousing expenses, and inland freight from the central warehouse to the point of distribution.

In accordance with section 772(d)(1) of the Act and the SAA at 823–824, we calculated the CEP further by deducting selling expenses associated with economic activities occurring in the United States, which consisted of credit expenses. In accordance with section 772(d)(1) of the Act, we also deducted indirect selling expenses associated with economic activities occurring in the United States, which consisted of inventory carrying costs and the profit allocated to expenses deducted under section 772(d)(1) in accordance with sections 772(d)(3) and 772(f) of the Act. Because Coca–Cola reported expenses incurred on U.S. but not home–market sales, we calculated a CEP profit rate based on the expense information provided in its 2005 financial statement for sales of merchandise in all markets, pursuant to section 772(f)(2)(C)(iii) of the Act. We applied this rate to those selling expenses associated with economic activities occurring in the United States to obtain the profit amount we deducted from the sales price.

During the POI, Coca–Cola sold lemon juice to a U.S. affiliate that further processed the merchandise into beverage or beverage–base products in the United States prior to sale to unaffiliated customers. Coca–Cola requested that it not be required to respond to section E of our questionnaire concerning its further–processed merchandise and submitted data to support its claim that the U.S. value added for such sales is likely to exceed substantially the value of the imported subject merchandise. After reviewing its request, we found that the value added in the United States is likely to exceed substantially the value of the subject merchandise and that there is a sufficient quantity of U.S. sales of non–further-processed merchandise to provide a reasonable basis for comparison to normal value. Accordingly, we have implemented the special rule for value–added sales pursuant to section 772(e) of the Act and have not included the sales of further–processed merchandise in our margin calculations. See Memorandum from Minoo Hatten to Laurie Parkhill regarding the reporting of further–manufactured merchandise, dated March 19, 2007.

Normal Value

A. Home–Market Viability and Comparison–Market Selection

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value (*i.e.*, the aggregate volume of home–market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared Coca–Cola's volume of home–market sales of the foreign like product to its volume of U.S. sales of the subject merchandise in accordance with section 773(a)(1)(C) of the Act. Because the volume of its home–market sales did not meet the five–percent threshold, we found that Coca–Cola's home market was not viable for price–comparison purposes. Moreover, Coca–Cola did not sell the foreign like product to any other country during the POI. Consequently, pursuant to section 773(a)(4) of the Act, we have based normal value on CV for all sales.

B. Level of Trade

As discussed in the ''Calculation of Normal Value Based on Constructed Value'' section below, we based CV selling expenses and profit on Coca–Cola's home–market sales of orange juice during the POI and CV general and administrative (GNA) expenses on its 2005 home–market sales of soft–drink concentrates. Coca–Cola has not provided level–of-trade information on any of its home–market sales and, thus, the record has insufficient information for us to perform a level–of-trade analysis for this preliminary determination.

C. Calculation of Normal Value Based on Constructed Value

We calculated CV in accordance with section 773(e) of the Act, which states that CV shall be based on the sum of a respondent's cost of materials and fabrication for the subject merchandise, plus amounts for selling, GNA expenses, profit, and U.S. packing costs. We relied on the submitted CV information for Coca–Cola except in certain instances. First, we have determined for the preliminary determination that lemon juice and lemon oil are co–products in Coca–Cola's processing of lemons. Thus, we have revised Coca–Cola's reported cost of manufacture for lemon juice to include a portion of the lemon–purchase costs and a portion of the common lemon–processing costs incurred before the split–off point in the production of lemon juice and lemon oil. In addition, we have revised Coca–Cola's reported costs for the production of lemon juice to include an allocable portion of the company's GNA expenses. For further discussion of these adjustments, see the Memorandum to Neal Halper from Mark Todd, ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination,'' dated April 19, 2007.

Because we have determined for purposes of this preliminary determination that Coca–Cola does not have a viable home market or third–country market, we have calculated Coca–Cola's selling expenses and profit based on section 773(e)(2)(B)(i) of the Act, which states that selling expenses and profit may be calculated based on ''actual amounts incurred by the specific exporter or producer. . . in connection with the production and sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise.'' We have determined for the preliminary determination that Coca–Cola's production and sale of orange juice in Mexico is merchandise in the same general category of products as lemon juice. Thus, we have revised the CV figures for Coca–Cola's lemon juice to include selling expenses and profit amounts that are based on Coca–Cola's production and sale of orange juice for consumption in Mexico.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on exchange rates in effect on the dates of the U.S.

sales, as certified by the Federal Reserve Bank.

All–Others Rate

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted–average dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated ''all others'' rate for exporters and producers not individually investigated. This provision contemplates that the Department may weight–average margins other than the zero, *de minimis*, or AFA margins to establish the all–others rate.

When the data does not permit the weight–averaging of such other margins, the SAA provides that the Department may use any other reasonable method. See SAA at 873. Coca–Cola is the only respondent in this investigation for which we have calculated a company–specific rate that is not based entirely on facts available. Therefore, for purposes of determining the ''all others'' rate and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin we have calculated for Coca–Cola as indicated in the ''Preliminary Determination'' section below.

Critical Circumstances

A. Citrotam/Pronacit and Coca–Cola

On March 30, 2007, the petitioner requested that the Department make a finding that critical circumstances exist with respect to imports of lemon juice from Mexico. The petitioner alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to the subject merchandise.

Since this allegation was filed earlier than the deadline for the preliminary determination, we must issue our preliminary critical–circumstances determination not later than the preliminary determination. See 19 CFR 351.206(c)(2); see also Policy Bulletin 98/4 regarding *Timing of Issuance of Critical Circumstances Determinations*, 63 FR 55364 (October 15, 1998).

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales and (B) there have been massive imports of the subject merchandise over a relatively short period.

In determining whether the relevant statutory criteria have been satisfied, the Department considered the evidence presented in the petitioner's March 30, 2007, submission, exporter–specific shipment data submitted by Coca–Cola on April 9, 2007, and the ITC Preliminary Report.

To determine whether there is a history of injurious dumping of the merchandise under investigation, in accordance with section 733(e)(1)(A)(i) of the Act, the Department normally considers evidence of an existing antidumping duty order on the subject merchandise in the United States or elsewhere to be sufficient. *See Preliminary Determinations of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova*, 65 FR 70696 (November 27, 2000). See also *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Certain Lined Paper Products From India*, 71 FR 19706 (April 17, 2006). The petitioner has made no statement concerning a history of dumping of lemon juice from Mexico. Moreover, we are not aware of any antidumping duty order on lemon juice from Mexico in any other country. Therefore, the Department finds no history of injurious dumping of lemon juice from Mexico pursuant to section 733(e)(1)(A)(i) of the Act.

To determine whether 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, in accordance with section 733(e)(1)(A)(ii) of the Act, the Department normally considers margins of 25 percent or more for export–price sales or 15 percent or more for CEP transactions sufficient to impute knowledge of dumping. See *Preliminary Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 31972, 31978 (June 11, 1997). For the reasons explained above, we have assigned a margin of 205.37 percent to Citrotam/Pronacit. Based on this margin, we have imputed importer knowledge of dumping for Citrotam/Pronacit. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons from Japan*, 68 FR 71077 (December 22, 2003) (TTR from Japan). With respect to Coca–Cola, because the preliminary dumping margin for Coca–Cola is 146.10 percent, we preliminarily determine that the knowledge criterion has been met.

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that there was likely to be material injury by reason of dumped imports, consistent with section 733(e)(1)(A)(ii) of the Act, the Department normally will look to the preliminary injury determination of the ITC. See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Japan, 64 FR 30574, 30578 (June 8, 1999) (Stainless Steel from Japan). The ITC preliminarily found material injury to the domestic industry due to imports of lemon juice from Mexico, which are alleged to be sold in the United States at less than fair value, and, on this basis, the Department may impute knowledge of likelihood of injury to these respondents. See ITC Preliminary Report. Thus, we determine that the knowledge criterion for ascertaining whether critical circumstances exist has been satisfied.

Because Citrotam/Pronacit has met the first prong of the critical–circumstances test, according to section 733(e)(1)(A)(i) of the Act we must examine whether imports from Citrotam/Pronacit were massive over a relatively short period of time. Section 733(e)(1)(B) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that there have been massive imports of the subject merchandise over a relatively short period.

Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine the volume and value of the imports, seasonal trends, and the share of domestic consumption for which the imports accounted. In addition, 19 CFR 351.206(h)(2) provides that an increase in imports of 15 percent during the ''relatively short period'' of time may be considered ''massive.''

Section 351.206(i) of the Department's regulations defines ''relatively short period'' as normally being the period beginning on the date the proceeding begins (*i.e.*, the date on which the petition is filed) and ending at least

three months later. The Department's regulations also provide, however, that, if the Department finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.

Because there is no verifiable information on the record with respect to Citrotam/Pronacit's import volumes, we must use facts available in accordance with section 776(a) of the Act. Moreover, because Citrotam/Pronacit failed to cooperate to the best of its ability, pursuant to section 776(b) of the Act, we have used an adverse inference in applying facts available and determine that there were massive imports from Citrotam/Pronacit over a relatively short period. *See TTR from Japan*, 68 FR at 71077.

Accordingly, because all of the necessary criteria have been met, in accordance with section 733(e)(1) of the Act, we preliminarily find that critical circumstances exist with respect lemon juice imported from Citrotam/Pronacit.

On April 9, 2007, Coca–Cola filed monthly import data for shipments of subject merchandise to the United States for June 2006 through March 2007. Coca–Cola's reported shipment data show that its volume of shipments of lemon juice is greater than the Department's 15–percent threshold for finding that imports have been massive. Coca–Cola contends that its increase in imports can be explained by seasonal trends. We have examined the information on the record and find that the increase in Coca–Cola's shipments during the comparison period is consistent with seasonal patterns related to the growing season for lemons and the corresponding production cycle for lemon juice. We analyzed import data for the relevant base and comparison periods for 2003 through 2006 and find that shipments show a consistent pattern of seasonality. For a detailed discussion see memorandum from Minoo Hatten to Laurie Parkhill entitled ''Antidumping Duty Investigation on Lemon Juice From Mexico - Preliminary Determination of Critical Circumstances'' dated April 18, 2007. Therefore we determine that there were no massive imports from Coco–Cola over a relatively short period. We preliminarily find that critical circumstances do not exist with respect to lemon juice imported from Coca–Cola.

B. All Others

It is the Department's normal practice to conduct its critical–circumstances analysis of companies in the all–others group based on the experience of investigated companies. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey*, 62 FR 9737, 9741 (March 4, 1997), where the Department found that critical circumstances existed for the majority of the companies investigated and concluded that critical circumstances also existed for companies covered by the all–others rate. As we determined in *Notice of Final Determination of Sales at Less Than Fair Value: Hot–Rolled Flat–Rolled Carbon–Quality Steel Products from Japan*, 64 FR 24329 (May 6, 1999), applying that approach literally could produce anomalous results in certain cases. Thus, in deciding whether critical circumstances apply to companies covered by the all–others rate, the Department also considers the traditional critical–circumstances criteria.

First, in determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that the exporter was selling lemon juice at less than fair value, we look to the all–others rate. See *TTR from Japan*, 68 FR at 71077. The dumping margin for the all–others category, 146.10 percent, is greater than the 25–percent threshold necessary to impute knowledge of dumping consistent with section 733(e)(1)(A)(ii) of the Act. Second, based on the ITC's preliminary material–injury determination, we also find that importers knew or should have known that there would be material injury from the dumped merchandise consistent with 19 CFR 351.206. See ITC Preliminary Report.

Finally, in determining whether imports from the all–others category have been massive, where possible, we have followed our normal practice of conducting the critical–circumstances analysis of companies in this category based on the experience of the investigated companies. We are unable to base our determination on our findings for Citrotam/Pronacit because our determination for Citrotam/Pronacit was based on AFA. Consistent with *TTR from Japan*, we have not inferred adverse facts, that massive imports exist for all–others companies, because, unlike Citrotam/Pronacit, the all–others companies have not failed to cooperate to the best of their ability in this investigation. Therefore, an adverse inference with respect to shipment levels by the all–others companies is not appropriate.

In this case, we have considered the experience of Coca–Cola. As discussed above, we preliminarily find that imports from Coca–Cola have not been massive over a relatively short period of time. Since our normal practice of conducting the critical–circumstances analysis of companies in the all–others category is based on the experience of the investigated companies, we determine that there have been no massive imports of lemon juice from companies in the all–others category. In addition, to ensure that relying upon the experience of the investigated companies did not cause anomalous results, we also reviewed the import statistics. In the case of lemon juice we are able to rely on information on the ITC's website because, in this investigation, the HTSUS categories for merchandise within the scope of the investigation (except for one) include only subject merchandise. The import statistics for Mexico support the conclusion that there have not been massive imports from Mexico.

Consequently, the criteria necessary for determining affirmative critical circumstances with respect to the all–others category have not been met. Therefore, we have preliminarily determined that critical circumstances do not exist for imports of lemon juice from Mexico for companies in the all–others category.

We will make a final determination concerning critical circumstances for all producers and exporters of subject merchandise from Mexico when we make our final antidumping determination in this investigation.

Verification

As provided in section 782(i) of the Act, we intend to verify all information upon which we will rely in making our final determination for Coca–Cola.

Preliminary Determination

We preliminarily determine that the following weighted–average dumping margins exist for the period July 1, 2005, through June 30, 2006:

Manufacturer/Exporter	Weighted–Average Margin (percent)
The Coca–Cola Export Corporation, Mexico Branch	146.10
Citrotam Internacional S.P.R. de R.L.(Citrotam)/ Productos Naturales de Citricos (Pronacit)	205.37
All Others	146.10

Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct CBP to suspend liquidation of all entries of lemon juice from Mexico that are entered, or

withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Additionally, for Citrotam/Pronacit, we will instruct CBP to suspend liquidation of entries made on or after 90 days prior to the publication of this notice in accordance with section 733(e)(2) of the Act. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted–average margin, as indicated in the chart above, as follows: (1) the rates for the mandatory respondents will be the rates we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 146.10 percent. These suspension–of-liquidation instructions will remain in effect until further notice.

Disclosure

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

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary determination of sales at less than fair value. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threatening material injury to, the U.S. industry. The deadline for the ITC's determination will 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

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the final verification report in this proceeding. Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline for the submission of case briefs. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide us with a copy of the public version of such briefs on diskette. 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 or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in an investigation, the hearing normally will 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, N.W., 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. We will make our final determination within 75 days after the date of this preliminary determination.

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

Dated: April 19, 2007.

Joseph A. Spetrini,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E7–8019 Filed 4–25–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 070416085–7085–01; I.D. 040907A]

Fishing Capacity Reduction Program for the Longline Catcher Processor Subsector of the Bering Sea/Aleutian Islands (BSAI) Non-Pollock Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of BSAI Non-Pollock Groundfish Longline Catcher Processor Subsector reduction payment tender.

SUMMARY: NMFS issues this notice to inform the public about tendering reduction payments under the longline catcher processor subsector of the Bering Sea/Aleutian Islands (BSAI) non-pollock groundfish fishery. The Freezer Longline Conservation Cooperative (FLCC) conducted the offer and selection process, submitted the reduction plan, and accepted four offers to remove groundfish license limitation program (LLP) licenses. A successful referendum approved the reduction loan repayment fees of $35 million. Accordingly, NMFS is preparing to tender reduction payments to accepted offerors.

DATES: The public has until May 29, 2007 to inform NMFS of any holding, owning, or retaining claims that conflict with the representations of offers as presented by the FLCC.

ADDRESSES: Send questions about this notice to Leo Erwin, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3282.

FOR FURTHER INFORMATION CONTACT: Leo Erwin, (301) 713–2390.

SUPPLEMENTARY INFORMATION:

I. Background

Section 219(e) of the Consolidated Appropriations Act of 2005 established the BSAI non-pollock groundfish longline catcher processor subsector fishing capacity reduction program (program). The program was implemented after the proposed rule was published in the **Federal Register** on August 11, 2006 (71 FR 46364) and the final rule on September 29, 2006 (71 FR 57696). Persons wanting further program details should refer to these rules.

The program's objectives include promoting sustainable fishery management and maximum sustained reduction of fishing capacity from the longline catcher processor subsector at the least cost. This is a voluntary program in which, in return for reduction payments, offerors permanently relinquish their fishing licenses, surrender the fishing histories upon which those licenses' issuance were based, and permanently withdraw vessels from fishing.

NMFS finances the program's $35 million cost, which post-reduction BSAI non-pollock groundfish longline catcher processors repay over a 30–year term. The fee amount, expressed in cents per pound rounded up to the next one-tenth of a cent, will be based upon the annual principal and interest due on the loan and could be up to 5 percent of longline subsector BSAI Pacific cod landings. In the event that the total principal and interest due exceeds 5 percent of the ex-vessel Pacific cod revenues, an additional fee of one penny per pound will be assessed for pollock, arrowtooth flounder, Greenland turbot, skate, yellowfin sole and rock sole.

The FLCC received member offers and subsequently voted to accept four offers. The FLCC used the reduction contracts