

Weible, Director, Office 9: Antidumping Duty Investigation of Certain Malleable Pipe Fittings from the People's Republic of China Preliminary Affirmative and Negative Determinations of Critical Circumstances, dated April 14, 2003 (*Critical Circumstances Memorandum*), on file in Import Administration's Central Records Unit (CRU), Room B-099, of the Department of Commerce building.

### Critical Circumstances

Section 733(e)(1) of the Act provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew, or should have known, that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and, (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent during the "relatively short period" of time may be considered "massive." Section 351.206(i) of the Department's regulations defines "relatively short period" as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later. Section 351.206(i) further provides 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.

In determining whether the relevant statutory criteria have been satisfied, we considered: (i) the evidence presented by the petitioners in their February 28, 2003 letter; (ii) exporter-specific shipment data requested by the Department on March 7, 2003; and (iii) U.S. ITC DataWeb import statistics.

### History of Dumping

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 Determination of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova*, 65 FR 70696 (November 27, 2000). With regard to existing antidumping orders, the petitioners note that the European Community (EC) currently imposes a 49.4 percent duty on MPF from the PRC. Therefore, pursuant to section 733(e)(1)(A)(i) of the Act, the Department finds a history of injurious dumping of MPF from the PRC. Additionally, as the Department finds a history of injurious dumping of MPF from the PRC, and under section 733(e)(1) of the Act a history of injurious dumping is sufficient basis to determine that critical circumstances exist, we have not addressed the issue of importer knowledge.

### Massive Imports

In determining whether there are "massive imports" over a "relatively short period," pursuant to section 733(e)(1)(B) of the Act, the Department normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the "base period") to a comparable period of at least three months following the filing of the petition (*i.e.*, the "comparison period"). However, as stated in section 351.206(i) of the Department's regulations, "if the Secretary finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, then the Secretary may consider a time period of not less than three months from that earlier time." Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period. *See* Section 351.206(h)(2).

For the reasons set forth in the Critical Circumstances Memorandum, we find no reason to believe that importers, exporters, or producers had reason to believe a proceeding was likely, prior to the filing of the petition. The Department requested from the respondents in this investigation monthly shipment data for October 2000 through April 2003, and obtained data

through February 2003. In addition, we obtained U.S. import data for subject merchandise for October 2000 through January 2003 from the U.S. ITC DataWeb. Accordingly, because the Department has four months of data, from the date of the filing of the petition, available for respondents, we determined that July 2002 through October 2002 should serve as the "base period," while November 2002 through February 2003 should serve as the "comparison period," in determining whether or not imports have been massive over a relatively short period for respondents.

According to 19 C.F.R. 351.206(i), the comparison period normally should be at least three months; however, if we determine that importers, exporters or producers had reason to believe that a proceeding was likely, then the Department may consider a longer period. In this case, we have chosen a period of four months as the period for comparison in preliminarily determining whether imports of the subject merchandise have been massive because respondents provided data inclusive of February 2003, and because choosing a four-month period in general properly reflects the "relatively short period" commanded by the statute for determining whether imports have been massive. *See* Section 733(e)(1)(B) of the Act.

We have determined that November 2002 is the month in which importers, exporters or producers knew or should have known an antidumping duty investigation was likely, because the petition was filed on nearly the last day of October 2002. Therefore, in applying the four-month period, we used a comparison period of November 2002 to February 2003, and a base period of July 2002 to October 2002. The Department requested from the respondents in this investigation monthly shipment data for October 2000 through April 2003. To date, the Department has received from respondents data inclusive of February 2003. In addition, we obtained U.S. import data for subject merchandise for October 2000 through January 2003 from the U.S. ITC DataWeb.

Pursuant to 19 C.F.R. 351.206(h)(2), we found imports of MPF from the PRC increased by more than 15 percent in the comparison period; accordingly, we find that imports have been massive. With regard to the issue of massive imports, in accordance with our current practice (*see Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon-Quality Steel Products From Brazil*, 65 FR 5554, 5561 (February 4, 2000)), we first considered the shipment data