

merchandise under investigation, in accordance with section 733(e)(1)(A)(i) of the Act, the Department normally considers the existence of a current or recent antidumping duty order on the subject merchandise in the United States or elsewhere to be sufficient. See *Preliminary Determination of Sales at Less Than Fair Value: Refined Brown Aluminum Oxide from the People's Republic of China*, 68 FR 23966 (May 6, 2003). With regard to imports of certain frozen fish fillets from Vietnam, the petitioners make no specific mention of a history of dumping for Vietnam. We are not aware of any antidumping order in the United States or elsewhere on certain frozen fish fillets from Vietnam. For this reason, the Department does not find a history of injurious dumping of the subject merchandise from Vietnam pursuant to section 733(e)(1)(A)(i) of the Act.

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known the exporter was selling certain frozen fish fillets at less than fair value, the Department normally considers margins of 25 percent or more for export price sales or 15 percent or more for constructed export price transactions sufficient to impute knowledge of dumping. See e.g. *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 (October 19, 2001). The Department normally bases its preliminary decision with respect to knowledge on the margins calculated in the preliminary determination. Because the preliminary dumping margins for the six voluntary Section A respondents with separate rates are greater than 25 percent, we find there is a reasonable basis to impute knowledge of dumping with respect to these imports from Vietnam.

In determining whether there is a reasonable basis to believe or suspect an importer knew or should have known there was likely to be material injury by reason of dumped imports, the Department normally will look to the preliminary injury determination of the Commission. If the Commission finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will normally determine a reasonable basis exists to impute importer knowledge that there was likely to be material injury by reason of dumped imports. See e.g. *Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 61967 (November 20, 1997). If, as in this case,

the Commission preliminarily finds threat of material injury, the Department will also consider: (1) the extent of the increase in the volume of imports of the subject merchandise during the critical circumstances period and (2) the magnitude of the margins in determining whether a reasonable basis exists to impute knowledge that material injury was likely. (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 (June 11, 1997); *Preliminary Determination of Sales at Less Than Fair Value, Certain Cut-to-Length Carbon Steel Plate from the Russian Federation*, 62 FR 31967 (June 11, 1997); *Preliminary Determination of Sales at Less Than Fair Value, Certain Cut-To-Length Carbon Steel Plate from Ukraine*, 62 FR 31958 (June 11, 1997)).

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 importers, 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.

For the reasons set forth in the *Memorandum for Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration, Group III, from Edward Yang, Director, Office IX, Antidumping Duty Investigation of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Critical Circumstances for Voluntary Section A Respondents* ("Voluntary Critical Circumstances Memo"), we find sufficient bases exist for finding that importers, or exporters, or producers knew or should have known an antidumping case was pending on certain frozen fish fillet imports from Vietnam by May 2002 at the latest. Accordingly, we determined December 2001 through April 2002 should serve as the "base period," while

May 2002 through September 2002 should serve as the "comparison period" in determining whether or not imports have been massive.

In this case, the volume of imports of certain frozen fish fillets from Vietnam increased 72.91 percent from the critical circumstances base period (December 2001 to April 2002) to the critical circumstances comparison period (May 2002 to September 2002), nearly five times the level of increase needed to find "massive imports." Furthermore, the amended preliminary dumping margins range from 31.45 to 41.06 percent for the mandatory respondents.

Based on the Commission's preliminary determination of threat of injury, the increase in the volume of imports of subject merchandise noted above, and the high preliminary dumping margins, the Department preliminarily finds that there is a reasonable basis to believe or suspect that the importer knew or should have known that there was likely to be material injury by means of sales at less than fair value of certain frozen fish fillets from Vietnam.

Pursuant to section 351.206(h) of the Department's regulations, we will not consider imports to be massive unless imports in the comparison period have increased by at least 15 percent over imports in the base period. On January 29, 2003, the Department requested company specific shipment data from the seven voluntary Section A respondent companies in order to determine whether there have been massive imports from these respondents. On February 10, 2003 and February 12, 2003, the Department received company-specific data from the seven voluntary Section A respondents. When we compared the import data during the base period with the comparison period for the six companies with preliminary separate rates, we found imports increased by more than 15 percent for QVD, Da Nang, Afiex, Cafatex, but did not increase by more than 15 percent for Viet Hai and Mekonimex. We therefore find that imports of subject merchandise were massive in the comparison period for QVD, Da Nang, Afiex, and Cafatex, but not for Viet Hai and Mekonimex.

In summary, we find there is a reasonable basis to believe or suspect importers had knowledge of dumping and the likelihood of material injury with respect to imports of certain frozen fish fillets from Vietnam. We further find there have been massive imports of certain frozen fish fillets over a relatively short period from respondents QVD, Da Nang, Afiex, and Cafatex. However, such imports have been found