

India as reported in the Asian Development Bank's *Second Water Utilities Data Book: Asian and Pacific Region* published in 1997. Because the data from this source was not contemporaneous with the POI, we adjusted the rate for inflation. See *Factor Valuation Memorandum* at page 6.

For domestic inland freight (truck), we used data from Bangladesh government statistics. The unit value was initially calculated in takas. Since the value was not contemporaneous with the POI, we adjusted the rate for inflation and converted the rate to U.S. dollars using the Department's exchange rate for Bangladesh.

Our treatment of by-products is in accordance with the Department's practice. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Steel Flat Products from the Peoples' Republic of China and accompanying Issues and Decision Memorandum*, 66 FR 49632 (September 28, 2001) at Comment 3. ("In the case of Angang and Benxi, we allowed recovery/by-product credits where the company provided information demonstrating that the recoveries/by-products were sold and/or reused in the production process.") Where a respondent provided evidence that the by-product generated during the frozen fish fillet processing stage of the production was sold, we valued that by-product using a surrogate value. If a respondent claimed that it sold a by-product generated during the frozen fish fillet processing stage, but did not provide evidence that the by-product generated was sold, we could not include the by-product offset in the calculation. Several of the respondents reported that certain by-products were reintroduced into the production process. If the by-product was reintroduced into the production process at any stage, we granted the by-product offset in an amount no greater than the volume actually re-introduced into the production process during the POI. See *Factor Valuation Memo* at 7.

To value factory overhead, selling, general and administrative expenses ("SG&A"), and profit, we calculated surrogate financial ratios based on the financial information from Apex Foods, Limited, a Bangladeshi seafood processor. See *Factor Valuation Memorandum* at page 7.

For labor, consistent with section 351.408(c)(3) of the Department's regulations, we used the Vietnam regression-based wage rate at Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in September

2002 (see <http://ia.ita.doc.gov/wages/index.html>). The source of the wage rate data on the Import Administration's Web site can be found in the *Yearbook of Labour Statistics 2000*, International Labor Office (Geneva: 2000), Chapter 5B: Wages in Manufacturing.

Critical Circumstances

On November 15, 2002, petitioners alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigations of certain frozen fish fillets from Vietnam. In accordance with 19 CFR 351.206(c)(2)(i), because petitioners submitted critical circumstances allegations more than 20 days before the scheduled date of the preliminary determination, the Department must issue preliminary critical circumstances determinations not later than the date of the preliminary determination.

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. 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. The regulations also provide, however, that if the Department finds 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 petitioners in their November 15, 2002 letter; (ii) new evidence obtained since the initiation of the less-than-fair-value ("LTFV") investigation (i.e., additional import statistics released by the U.S. Census Bureau); and (iii) the ITC's preliminary threat of injury determination.

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 imports of certain frozen fish fillets from Vietnam, 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 in any country 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 all exporters are greater than 25 percent, we find there is a reasonable basis to impute to importer knowledge of dumping with respect to all 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