

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 Critical Circumstances Memorandum, we find sufficient bases exist for finding importers, or exporters, or producers knew or should have known antidumping cases were 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 the comparison period.

In this case, the volume of imports of certain frozen fish fillets from Vietnam increased 72.91 percent from the critical circumstances base period (May 2002 to September 2002) to the critical circumstances comparison period (December 2001 to April 2002), nearly five times the level of increase needed to find "massive imports." Furthermore, the preliminary dumping margins range from 37.94 to 61.88 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 margins from the 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 19 CFR 351.206(h), we found imports increased by more than 15 percent for the respondent Nam Viet and for the Vietnam-wide entity as a whole, but did not increase by more than 15 percent for the respondents Agifish, Vinh Hoan, and CATACO. We therefore, find that imports of subject merchandise were massive in the comparison period for Nam Viet, but not for Agifish, Vinh Hoan, or CATACO.

The Department does not have the individual monthly shipment data necessary to determine if there were massive imports from the six non-selected respondents at this time. While the Department has, in the past, utilized the experience of the mandatory respondents to inform its judgement regarding the non-selected respondents, in this case, there are mixed results among the mandatory respondents. Moreover, the results for the majority of the mandatory respondents are at odds with the broader Customs data available to the Department. Consequently, the Department has determined that the most appropriate action would be to obtain producer-specific shipment data from the non-selected respondents to form the basis of its analysis.

In addition, we find that imports of subject merchandise were massive in the comparison period for the Vietnam-wide entity. *See the Critical*

Circumstances Memorandum for more detailed information.

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 respondent Nam Viet. However, such imports have been found to be not massive over a relatively short period from Agifish, Vinh Hoan and CATACO. In addition, we find that imports of certain frozen fish fillets have been massive over a relatively short period from the Vietnam-wide entity.

Given the analysis summarized above, and described in more detail in the Critical Circumstances Memorandum, we preliminarily determine critical circumstances exist for imports of certain frozen fish fillets from Nam Viet and the Vietnam-wide entity. We will publish our preliminary critical circumstances decision with respect to Afiex, Cafatex, Da Nang, Mekonimex, QVD, and Viet Hai as soon as we have obtained the additional data.

In accordance with section 733(e)(2) of the Act, upon issuance of an affirmative preliminary determination of sales at less than fair value in the investigation with respect to imports of certain frozen fish fillets from Vietnam, the Department will direct the U.S. Customs Service (Customs) to suspend liquidation of all entries of certain frozen fish fillets from Vietnam (excluding entries from Agifish, Vinh Hoan, CATACO, Afiex, Cafatex, Da Nang, Mekonimex, QVD, and Viet Hai) that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication in the **Federal Register** of our preliminary determinations in these investigations. Customs shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margins reflected in the preliminary determinations published in the **Federal Register**. The suspension of liquidation to be issued after our preliminary determination will remain in effect until further notice.

We will make a final determination concerning critical circumstances for all producers and exporters of subject merchandise from Vietnam when we make our final dumping determinations in this investigation, which will be 135 days after issuance of the preliminary dumping determination.

The weighted-average dumping margins are as follows: