

When we compared CV to CEP, we deducted from CV the weighted-average home market direct selling expenses. For a discussion of the calculation of these expenses, see the memorandum from Michael Strollo to the File entitled: Calculations Performed for Funai Electric (Malaysia) Sdn. Bhd. (Funai Malaysia) for the Preliminary Determination in the 2002–2003 Antidumping Duty Investigation of Certain Color Television Receivers from Malaysia, dated November 21, 2003.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Critical Circumstances

On October 16, 2003, the petitioners alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigation of CTVs from Malaysia. In accordance with 19 CFR 351.206(c)(2)(i), because petitioners submitted a critical circumstances allegation more than 20 days before the scheduled date of the preliminary determination, the Department must issue its preliminary critical circumstances determination not later than the date of the preliminary determination.

Section 733(e)(1) of the Act provides that the Department, upon receipt of a timely allegation of critical circumstances, will determine whether 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 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.

According to 19 CFR 351.206(h)(1), 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, 19 CFR 351.206(h)(2) provides that “unless the imports during a ‘relatively short period’ have increased by at least 15 percent over the imports

during an immediately preceding period of comparable duration, the Secretary will not consider the imports massive.”

In accordance with 19 CFR 351.206(i), the Department defines “relatively short period” as generally the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later.

In determining whether the above statutory criteria have been satisfied, we examined: (1) the evidence presented in the petitioners’ submission of October 16, 2003; (2) exporter-specific shipment data requested by the Department; and (3) the ITC preliminary injury determination.

To determine whether a history of dumping and material injury exists, the Department generally considers current or previous antidumping duty orders on the subject merchandise from the country in question in the United States and current orders in any other country. The Department will normally not consider the initiation of a case, or a preliminary or final determination of sales at LTFV in the absence of an affirmative finding of material injury by the ITC, as indicative of a history sufficient to satisfy this criterion. See *Preliminary Determination of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova*, 65 FR 70696 (Nov. 27, 2000). With regard to imports of CTVs from Malaysia, the European Union (EU) imposed antidumping duty measures on CTVs from Malaysia in 1995. Because there is a history of dumping and material injury by reason of dumped imports in the EU of the subject merchandise, the first criterion of the test for finding critical circumstances is met.

Because we have preliminarily found that section 733(e)(1)(A) of the Act is met, we must consider whether under section 733(e)(1)(B) of the Act imports of the merchandise have been massive over a relatively short period. According to 19 CFR 351.206(h), we consider the following to determine whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by the imports.

When examining volume and value data, the Department typically compares the export volume for equal periods immediately preceding an following the filing of the petition. Unless the imports in the comparison period have increased by at least 15 percent over the imports during the base period, we will not consider, under 19 CFR 351.206(h), the imports to have been “massive.”

To determine whether imports of subject merchandise have been massive over a relatively short period, we compared the respondent’s export volumes for the four months before the filing of the petition (*i.e.*, January through April 2003) to that during the four months after the filing of the petition (*i.e.*, May through August 2003). These periods were selected based on the Department’s practice of using the longest period for which information is available from the month that the petition was filed through the effective date of the preliminary determination.

The Department requested and obtained from Funai Malaysia monthly shipment data for 2001, 2002, and 2003. According to its monthly shipment information, we found the volume of shipments of CTVs increased by more than 15 percent. However, in comparing the time series data for the two years prior to the petition (*i.e.*, 2001 and 2002), we note that there have also been significant surges in imports from Funai Malaysia between those same base and comparison periods. In *Certain Color Television Receivers from China and Malaysia*, Investigations Nos. 731–TA–1034 and 1035 (Preliminary), USITC Pub. No. 3607 (*ITC Prelim*), the ITC indicated that subject imports of CTVs: (1) Account for only a small percentage of everyday sales; (2) represent the bulk of product advertised and sold during the holiday season; and (3) arrive in containers months before in preparation for the holiday season. See *ITC Prelim* at 17–18. Therefore, based on the time series data and the information contained in the ITC Prelim, we conclude that imports of CTVs are subject to seasonal trends. Moreover, our analysis shows that these seasonal trends account for the increase in imports during the time periods examined. Consequently, despite the greater than 15 percent increase in imports from Funai Malaysia between the base and comparison periods, we find that subject imports are not considered “massive” pursuant to 19 CFR 351.206(h)(1)(ii). See the memorandum from The CTVs Team to Louis Apple, Director, entitled: “Antidumping Duty Investigation of Certain Color Televisions from Malaysia—Preliminary Negative Determination of Critical Circumstances,” (Critical Circumstances Memo) dated November 21, 2003.

It is also the Department’s practice to conduct its critical circumstances analysis of companies in the “All Others” category based on the experience of the investigated companies. Because we are determining