

Department must base its "massive imports" determination as to these companies on the facts available, pursuant to section 776(a) of the Act.<sup>3</sup> Because these companies failed to cooperate by not acting to the best of their ability to respond to the Department's questionnaires, we may make an adverse inference in selecting the facts available. Therefore, consistent with Department practice, we have adversely inferred, as facts available, that there were massive imports from UC and DNP over a relatively short period. *See Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails from Taiwan (Collated Roofing Nails From Taiwan)*, 62 FR 51427 (October 1, 1997).

Based on our determination that there is a reasonable basis to believe or suspect that importers knew or should have known that exporters UC and DNP were selling TTR from Japan at less than fair value, that there was likely to be material injury by reason of such dumped imports, and that there have been massive imports of TTR from these producers over a relatively short period, we preliminarily determine that critical circumstances exist for imports from Japan of wax and wax/resin TTR produced by UC and DNP.

It is the Department's normal practice to conduct its critical circumstances analysis of companies in the "all others" group based on the experience of investigated companies. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey*, 62 FR 9737, 9741 (March 4, 1997) (*Rebars from Turkey*) (the Department found that critical circumstances existed for the majority of the companies investigated, and therefore concluded that critical circumstances also existed for companies covered by the "all others" rate). However, the Department does not automatically extend an affirmative critical circumstances determination to companies covered by the "all others" rate. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Japan*, 64 FR 30574 (June 8, 1999) (*Stainless Steel from Japan*). Instead, the Department considers the traditional critical circumstances criteria with respect to the companies covered by the "all others" rate. Consistent with *Stainless Steel from Japan*, the Department has, in this case, applied the traditional critical circumstances

criteria to the "all others" category for the antidumping investigations of TTR from Japan.

First, in determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that the exporter was selling the TTR at less than fair value, we look to the "all others" rate, which is based, in the instant case, on facts available. The dumping margin for the "all others" category in the instant case, 106.60 percent, exceeds the 15 percent threshold necessary to impute knowledge of dumping. Second, based on the ITC's preliminary material injury determination, we also find that importers knew or should have known that there would be material injury from the dumped merchandise.

Finally, with respect to massive imports, we are unable to base our determination on our findings for the mandatory respondents, because our determinations for all of the respondents were based on facts available. We have not inferred, as facts available, that massive imports exist for "all others" because, unlike UC and DNP, the "all others" companies have not failed to cooperate in this investigation. Therefore, an adverse inference with respect to shipment levels by the "all others" companies is not appropriate. Instead, consistent with the approach taken in *Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan (Hot-Rolled Steel from Japan)*, 64 FR 24239 (May 6, 1999) and *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand (Cold-Rolled Steel from Japan)*, 65 FR 5220, 5227 (February 4, 2000), we examined U.S. Customs data on overall imports from Japan for the five months preceding and the five months following the filing of the petition in order to see if we could ascertain whether an increase in shipments of greater than 15 percent or more occurred within a relatively short period following the point at which importers had reason to believe that a proceeding was likely. However, information on the record indicates that these data cover numerous HTS categories that include merchandise other than subject merchandise. The U.S. Customs data also is reported in multiple units of measure. Therefore, we cannot rely on these data in determining whether there

were massive imports for the "all others" category.<sup>4</sup>

Based on our determination that massive imports of TTR from the producers included in the "all others" category did not occur and, consequently, that the third criterion necessary for determining affirmative critical circumstances has not been met, we have preliminarily determined that critical circumstances do not exist for imports from Japan of TTR for companies in the "all others" category.

### Suspension of Liquidation

For UC and DNP, as indicated above, we have made a preliminary affirmative critical circumstances finding. Therefore, in accordance with section 733(d)(2) of the Act, we are directing Customs to suspend liquidation of all entries of subject merchandise from UC or DNP that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication of this notice in the **Federal Register**. We are directing Customs to suspend liquidation of all entries of subject merchandise from companies other than UC or DNP that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing Customs to require a cash deposit or the posting of a bond equal to the dumping margin as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

The dumping margins are as follows:

Producer/exporter	Margin (percentage)
Union Chemical Company Limited .....	147.30
Dai Nippon Printing Company Limited .....	147.30
All Others .....	106.60

### International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative

<sup>4</sup> See *Preliminary Determinations of Critical Circumstances: Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan and South Africa*, 65 FR 12509, 12511 (March 9, 2000) (where the Department determined that massive imports did not exist for imports from companies in the "all others" category because it could not rely on the U.S. Customs data). See also *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan; and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan and the Republic of South Africa* 65 FR 25907, 25908 (May 4, 2000).

<sup>3</sup> Because the two respondents did not respond to the questionnaire, they are non-cooperating respondents and accordingly we did not request monthly shipment data from these companies.