



Government of Canada
Embassy of Canada

Gouvernement du Canada
Ambassade du Canada

June 6, 2008

The Honorable David Spooner
Assistant Secretary for Import Administration
Central Record Unit, Room 1870
US Department of Commerce
14th Street and Constitution Avenue NW
Washington DC 20230

**RE: Proposed Methodology for Identifying and Analyzing Targeted Dumping in
Antidumping Investigations**

Dear Assistant Secretary Spooner,

The Government of Canada would like to submit the attached written comments to the Office of Import Administration concerning the proposed targeted dumping methodology.

We would like to thank you in advance for your consideration of these comments.

Yours truly,

Susan Harper
Minister (Economic)

enclosure (1)

**COMMENTS BY THE
GOVERNMENT OF CANADA
TO THE INTERNATIONAL TRADE ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE**

**REQUEST FOR COMMENT:
PROPOSED METHODOLOGY FOR IDENTIFYING
AND ANALYZING TARGETED DUMPING
IN ANTIDUMPING INVESTIGATIONS**

**U.S. FEDERAL REGISTER 73FR26271
May 9, 2008**

**Submitted by:
The Canadian Embassy
Washington, D.C.
June 2008**

INTRODUCTION

Further to the recent Notice in the *Federal Register* (73 FR 26371 of May 9, 2008) as well as to its letter of November 21, 2007, the Government of Canada wishes to provide comments in response to the request by the Department regarding the issue of targeted dumping.

COMMENTS

The Department will recall that it is Canada's view that the "targeted dumping" methodology is only applicable in "exceptional" situations. The "exceptional" nature of the methodology is affirmed by the Article 2.4.2 of the WTO Anti-Dumping Agreement requirement that an explanation must be provided as to why export price differences among purchasers, regions and time periods cannot be appropriately dealt with under the weighted average-to-weighted average or transaction-to-transaction methodology.

In its previous comments to the Department, Canada submitted that any guidelines, thresholds and/or tests established to determine whether recourse to the targeted dumping methodology is appropriate should clearly establish that the pre-conditions set out in Article 2.4.2. of the AD Agreement have been satisfied. Canada then suggested that, in order to constitute a pattern of significant price differences sufficient to provide a reasonable indication of targeted dumping, any such guidelines should require: (i) evidence of differential pricing based on clearly discernible groupings of customers, regions, and/or time periods; (ii) evidence that such differential pricing cannot be justified on the basis of normal commercial pricing considerations; and (iii) that there be a nexus between the differential prices that is logically indicative of a targeting arrangement.

It is Canada's understanding that the Department now is proposing to apply a statistical or mathematical standard to the question of whether a targeted dumping situation exists, splitting the test for making that determination between the issues of whether there is first a pattern and

secondly, whether that pattern reveals significant differences between the prices by the exporter to “targeted” and “non-targeted” customers. As previously noted, Canada has never applied the targeted dumping methodology and therefore does not have any practical comment on the suitability of the numerical standards proposed by the Department in its notice.

Nevertheless, it is Canada’s view, as expressed in their comments of November 21, 2007, that the methodology should require the demonstration of a targeting situation. The simple application of mathematical standards to the question of whether a targeting situation exists, in Canada’s view, is too simplistic and could lead to flawed or faulty findings. Canada suggests that affirmative evidence beyond mathematical standards would not only be more compelling but would be necessary to ensure that the exceptional nature of the use of targeted dumping would be preserved. In Canada’s view, evidence of a targeting situation cannot be assumed statistically but must be demonstrated factually, based on affirmative evidence of the targeting of export sales to certain customers, certain regions or within certain time periods. The use of a statistical standard should not be accepted as a substitute for relevance or logic in accepting that targeted dumping is taking place.

Canada also notes that the Department has asked for comments on the appropriate criteria and standards to be used for the definitions of regions and time periods. In this context, without further analysis based on practical experience with the incidence of targeting dumping, Canada believes it would be unwise to take a position on such definitions. As for the appropriate standard for accepting allegations of targeting dumping, Canada believes that it should be rigorous enough to reflect the clearly exceptional nature of the situation in which targeted dumping methodology can be employed.