TRADE LAW INTERNATIONAL, CHARTERED
500 8th Street, NW
Suite 3010
Washington, DC 20004
www.tradelawintl.com

Jack A. Levy
jack.levy@tradelawintl.com
T 202.863.7280
F 202.280.1349

June 9, 2008

PUBLIC DOCUMENT

VIA HAND DELIVERY

David Spooner
Assistant Secretary for Import Administration
U.S. Department of Commerce
Central Records Unit, Room 1870
14th Street and Constitution Avenue, NW
Washington, DC 20230

Re: Comments on Proposed Methodology for Identifying and Analyzing Targeted Dumping in Antidumping Investigations, 73 Fed. Reg. 26371 (May 9, 2008)

Dear Assistant Secretary Spooner:

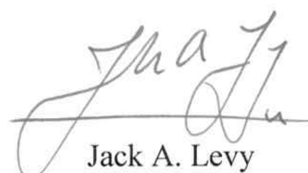
Trade Law International, Chartered ("TLI") represents various manufacturers in the United States, including certain U.S. chemical producers that are vulnerable to injury by reason of dumped imports. Upon reviewing the Department's Proposed Methodology for Identifying and Analyzing Targeted Dumping in Antidumping Investigations, 73 Fed. Reg. 26371 (May 9, 2008), we are concerned that the Department is planning to adopt a generally applicable test that is statistically flawed, and would prejudice the interests of such U.S. producers.

The Department's proposed methodology purports to apply standard statistical measures of variability to test whether prices to targeted customers are systematically lower than those to non-targeted customers. A proper difference-between-means test would look at the prices charged to the targeted and non-targeted customers separately, and then test whether the difference in means is significant relative to the two independently-measured standard deviations. The Department's proposed approach is statistically flawed because it calculates a combined mean and single standard deviation.

To illustrate the problem with the Department's proposed approach, consider its application to the chemical industry. Foreign producers often target U.S. purchasers who consume large volumes of a standard product because long production runs for that product help to fully utilize their plant capacity and absorb fixed costs. These U.S. purchasers are offered low prices while the U.S. customers who purchase smaller volumes of standard products and specialty products pay substantially higher prices. Under these facts, the first part of the Department's test may not be met because the methodology depends on the calculation of a <u>combined mean</u> and a <u>single standard deviation</u>. The large volumes sold to the targeted customer necessarily cause the combined mean to be nearly the same as the mean price for the targeted customer, regardless of the magnitude of the price for the small volumes sold to the non-targeted customer. Since the combined standard deviation will be only slightly greater than the standard deviation of the distribution of prices to the targeted customer, the perverse result can be that <u>no</u> sales to the targeted customer will be below the combined mean minus one standard deviation.

In sum, the Department's proposed approach may often allow a foreign producer to avoid a finding of targeted dumping simply because the volume of low-priced sales to the targeted customer predominates in relation to the volume of high-priced sales to the non-targeted customer. This methodology makes no sense, is statistically flawed, and should not be adopted.

Sincerely,



Jack A. Levy