



Consuming Industries  
Trade Action Coalition

June 9, 2008

Hon. David Spooner  
Assistant Secretary for Import Administration  
Department of Commerce  
Washington, D.C. 20230

**Re: Proposed Methodology for Identifying and Analyzing Targeted Dumping in Antidumping Investigations; Comments of Consuming Industries Trade Action Coalition (CITAC)**

Dear Mr. Spooner:

This comment letter is submitted in response to the Federal Register notice of May 9, 2008 (73 Fed. Reg. 26371) on behalf of the Consuming Industries Trade Action Coalition (CITAC). CITAC includes U.S. manufacturers, retailers and distributors employing millions of Americans that are concerned about global competitiveness of United States manufacturers, who require access to globally priced imported goods in the United States market to maintain competitiveness for U.S. industries.

As CITAC noted in its December 10, 2007 comments, targeted dumping is an extremely important issue for consuming industries. If inappropriately handled, targeted dumping could serve as a method for imposing unnecessary and excessive antidumping duties. Coupled with the unique retrospective system of duty collection in the United States, U.S. manufacturers could well find themselves without adequate access to imported raw materials, placing them at a significant disadvantage compared to their global competitors.

The proposed two-step method for determining whether targeted dumping has been proven requires, as it should, more than a slight difference between price levels for the non-targeted groups (customers, time periods or regions) and the allegedly targeted groups. This is a fundamental requirement for any fair system. We commend the Department for not succumbing to calls for arbitrary line-drawing, such as instituting targeted dumping procedures for price differences as small as two percent.

The proposed "standard deviation" method remains unclear, however, and needs to be spelled out more specifically. Certainty and predictability are key requirements of any fair system. While the proposal is a sign of progress, it is not specific enough yet.

CITAC also questions whether a difference of one “standard deviation” between weighted average sales by the exporter concerned and the “targeted” portion of sales (by customer, time period or region) is sufficiently great. We note that the magnitude of the difference is closely related to the difference in treatment between “targeted” and “non-targeted” sales.

CITAC reiterates our call to the Department to establish policies of general and prospective application to give consuming industries an enhanced role in (1) commenting on the allegations of targeted dumping made by petitioners in specific cases; and, (2) participating in the investigation of targeted dumping. These policies should recognize that targeted dumping is an *exceptional* process and requires input from consuming industry participants that bears directly on the existence of targeted dumping and the calculation of any margins of dumping based on that allegation. The Department should allow customers of domestic producers and exporters to comment on the targeted dumping allegations of Petitioners. Customers will have such knowledge with regard to proper boundaries for regional markets, identities of customers, where that is relevant; and appropriate time periods. Respondents may not have the detailed knowledge of these issues in the U.S. Only their customers can provide this information.

CITAC also notes that the calculation of targeted dumping is of critical importance in reaching a fair result. Targeted dumping will tend to increase dumping margins and must be limited to the basis for alleging targeted dumping: a *pattern* of significant price differences among customers, geographic regions and time periods. This leads to two important principles that are indispensable to a fair system.

First, when dumping is measured on an “average-to-transaction” basis, as the targeted dumping regulation indicates, the Department must calculate normal values on a basis commensurate with the allegation. For example, it would be clearly inappropriate for the Department to determine the existence of targeted dumping by time period if normal values were calculated for a period that extended beyond the alleged period of time of targeted dumping. The regulations require monthly average normal values, which should be sufficiently narrow in most cases. The current regulations do not permit normal values for this purpose to be longer than a calendar month.

The proposed procedure does not address the time period for determining normal values in targeted dumping cases. We note that the *Coated Freesheet Paper* case used annual normal values, which is clearly inappropriate in many cases.

Second, the Department must not use “targeted dumping” as a reason to resort to “zeroing” of negative targeted dumping sales comparisons or any other arbitrary manipulation that results in increased dumping margins. We reiterate that zeroing is not appropriate in targeted dumping analysis because it negates the core of a targeted dumping allegation (a *pattern* of significant price differences). The argument by some commenters in December 2007 that the Department should not require a showing of intent simply dodges the issue of whether it is appropriate to ignore a pattern of significant differences by ignoring some sales comparisons within the alleged pattern.

Hon. David Spooner

June 9, 2008

Page 3

For example, if a respondent is accused of targeted dumping by selling at significantly lower prices to a specific customer than for other customers, the evidence that most sales to that customer were above normal value would tend to negate a finding of a "pattern" of pricing behavior. Zeroing cannot be justified in such a situation because the mathematical result would be meaningless and unconnected to the basis for the analysis.

Third, downstream users of the product must be permitted to participate meaningfully in the process. We urge the Department to consider that in targeted dumping proceedings downstream industrial users be given access to the full record.

CITAC appreciates the opportunity to submit these comments for the Department's consideration. We look forward to working with you to achieve fair results for all participants in the process.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steve Alexander", with a long horizontal flourish extending to the right.

Stephen A. Alexander  
Executive Director