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December 10, 2007

PUBLIC DOCUMENT

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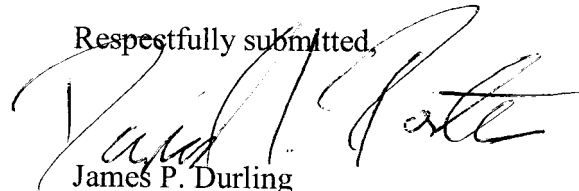
Re: Development of a Targeted Dumping Methodology

Dear Mr. Secretary:

With this submission the Japan Iron and Steel Federation (“JISF”) provides its response to the Commerce Department’s *Federal Register* notice, dated October 25, 2007, seeking comments regarding the development of a targeted dumping methodology.

JISF appreciates the opportunity to provide comments. JISF’s comments are set forth in the attached document.

Respectfully submitted,



James P. Durling
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Daniel L. Porter

**Before the United States Department of Commerce
International Trade Administration**

**Comments of the Japan Iron & Steel Federation on the Department's
Development of a Targeted Dumping Methodology**

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Introduction and Summary

This submission provides the comments of the Japan Iron and Steel Federation (“JISF”) in response to the Department of Commerce’s (“the Department”) October 25, 2007 request for comments regarding the development of a targeted dumping methodology. Specifically, these comments suggest guidelines, thresholds, and tests the Department should employ in determining whether targeted dumping is occurring in future investigations. JISF appreciates the opportunity to provide these comments to the Department regarding a targeted dumping methodology.

This submission consists of four sections. Section A urges the Department to consider both its past experience in analyzing targeted dumping as well as the statutory preference for a weighted-average to weighted-average comparison in developing a new methodology. In *Pasta*, the Department analyzed the elements of the targeted dumping statute and devised a workable methodology that was approved by the Court of International Trade. This analysis and the resulting standards for evaluating a targeted dumping provision should be taken into account during the current efforts to arrive at a new methodology. Additionally, the Department must respect the statutory preference to avoid applying a targeted dumping analysis absent explicit justification. The targeted dumping statute and the Department’s implementing regulations reveal a general disfavor for applying a targeted dumping analysis that must be respected in any new methodology.

Section B proposes that the Department employ mainstream standard statistical tests to reliably identify true outliers. This section outlines the benefits of incorporating existing statistical techniques and explores alternative approaches for identifying significant differences in sample means. Mechanical rules setting fixed percentages are flawed because they do not account in any way for the degree of variance in the underlying sample, but there are other commonly used statistical methods that do take into account the underlying variance and thus provide a much superior method to identify possible outliers that warrant further investigation. This section also discusses explanations why prices might appear to be outliers for reasons unrelated to targeted dumping and suggests ways to distinguish true outliers. Following this discussion, we conclude by offering suggestions on how the Department, when applying statistical principles, should allocate burdens among the various parties concerning a targeted dumping allegation.

Section C explains why the Department must vigorously ensure that targeted dumping is not found in instances where price differences can otherwise be accounted for using the weighted-average to weighted-average comparison. By statute, the Department may only apply a targeted dumping analysis after first explaining why such differences cannot be taken into account using the preferred method. Further, the Department is authorized to delineate averaging groups by purchasers, regions, or periods of time. As a result, very few instances should arise where the Department is unable to account for price differences using the statutorily preferred method.

Finally, Section D discusses the Department's practice of applying "double zeroing" when calculating antidumping margins for sales transactions deemed to meet the targeted dumping criteria. This practice violates both the Department's own stated policy and the WTO Antidumping Agreement. The comparison methodology used by the Department when analyzing targeted sales is indistinguishable from the comparison methodology for administrative reviews that was struck down by the WTO Appellate Body as inconsistent with U.S. obligations under the WTO. In addition, the double zeroing practice is contrary to the Department's recently stated new policy to no longer make average-to-average comparisons in investigations without providing offsets for non-dumped comparisons, and thus to respect U.S. international obligations.

A. Any Revised Approach Should Take Into Account the Department's Previously Articulated Targeted Dumping Methodology and Respect That the Antidumping Statute Expressly Disfavors a Targeted Dumping Analysis.

The Department has previously articulated the standards by which it would evaluate a targeted dumping petition, an approach that was approved by the Court of International Trade ("CIT"). In response to a court remand in *Borden, Inc. v. United States*, 4 F. Supp. 2d 1221 (Ct. Int'l Trade 1998) ("*Borden*"), the Department articulated the evidentiary requirements petitioners were to satisfy to initiate a targeted dumping investigation (the "*Pasta Test*")¹ in *Certain Pasta from Italy*.² The

¹ Redetermination on Remand, *Certain Pasta From Italy* (August 28, 1998) ("*Remand Determination*").

² *Certain Pasta from Italy*, 61 Fed. Reg. 30,326 (Dep't of Commerce June 14, 1996) (final determ.) ("*Pasta*").

Department described these requirements as “an attempt . . . to flesh out the statutory language in section 777A(d)(1)(B)”³

In particular, the Department developed the statutory references to “pattern of prices” and “differ significantly.”⁴ The Department identified two thresholds for identifying price differences significant enough to trigger a targeted dumping investigation. First, the price to the allegedly targeted purchaser must be in the lowest 20 percent of all average transaction prices. This requirement avoids the illogical conclusion that the majority of purchasers were targeted. Second, to determine what level of price differences is significant, the Department required that the price separation between allegedly targeted and non-targeted customers must be equal or greater than the maximum price separation within the non-targeted group, unless the party shows the exporter’s data to be non-representative of the industry as whole. The Department also described which significant price differences would qualify as a pattern. Specifically, the Department would recognize a pattern of significant price differences if (i) they existed, on average, over all relevant periods and for all products sold by the exporter to the allegedly targeted customer or customers, and (ii) average transaction prices exhibited a “downward skewness” with respect to allegedly targeted customers.⁵

³ Department of Commerce Letter Releasing Its Final Targeted Dumping Methodology dated July 22, 1998.

⁴ *Remand Determination*, at 16.

⁵ *Id.*

The *Pasta* Test represents an effort by the Department to address each element of the statutory definition of targeted dumping and should therefore be taken into account during the formulation of a new approach. Any proposed targeted dumping methodology must satisfy the statutory and regulatory standards to determine whether there is a pattern of export prices that differ significantly among purchasers. The *Pasta* Test fulfills these requirements and has been approved by the CIT.⁶ The methodology devised by the Department in *Pasta* was designed to test whether a targeted dumping allegation is sufficiently detailed and rigorous enough to meet requirements in the targeted dumping provision of the antidumping statute and the Department's implementing regulations. Although *Pasta* involved allegations of customer-specific targeted dumping, the general testing procedures can easily be applied to all targeting situations. In fact, the methodology developed by the Department in *Pasta* was intended to be generally applicable to all targeted dumping variations. The Department admitted as much in the *Pasta* Redetermination on Remand, explaining that "[w]hile the specific criteria proposed by the Department concerned customer targeting, they could be modified to cover regional or time period targeting."⁷ The testing procedures developed in *Pasta* were primarily general in nature and easily applicable to any targeted dumping allegation. Therefore, there is no reason the Department should ignore the previously articulated and workable approach when formulating a new methodology.

⁶ See *Borden v. United States*, 23 Ct. Int'l Trade 372 (1999) ("*Borden Remand*").

⁷ *Remand Determination*, at 16.

In addition to taking into account the previous approach, any proposed targeted dumping methodology must respect that the statute expressly disfavors a targeted dumping analysis. As the Court of International Trade has explained, transaction-specific price comparisons, not weighted-average price comparisons, are the exception requiring justification.⁸ Both the Department and the CIT have been unambiguous in explaining that the weighted-average to weighted-average comparison is the normal method required by law, and that the Department may, though it is not required to, deviate from this requirement only under certain conditions and then only upon explicit justification of its decision.⁹ The Statement of Administrative Action (“SAA”) accompanying the Uruguay Round Agreements Act (“URAA”) describes as normal the weighted-average to weighted average comparison:

Consistent with the Agreement, new section 777A(d)(1)(A)(i) provides that in an investigation, Commerce normally will establish and measure dumping margins on the basis of a comparison of a weighted-average of normal values with a weighted-average of export prices or constructed export prices.¹⁰

The SAA further explains that the exception to the normal methodology is an antidote to targeted dumping:

New section 777A(d)(1)(B) provides for a comparison of average normal values to individual export prices or constructed export prices in situations where an average-to-average or transaction-to-transaction methodology cannot account for a pattern of prices that differ

⁸ *Borden*, at 1224.

⁹ *Id.* at 1225.

¹⁰ Statement of Administrative Action Accompanying the URAA, at 842, H.R. 5110, H.R. Doc. No. 316, Vol. 1 103d Cong., 2d Sess. (1994) (“SAA”).

significantly among purchasers, regions, or time periods, *i.e.*, where targeted dumping may be occurring. Before relying on this methodology, however, Commerce must establish and provide an explanation why it cannot account for such differences through the use of an average-to-average or transaction-to-transaction comparison.¹¹

The statutory language above indicates a preference for the weighted-average to weighted-average comparison. Any new targeted dumping approach must respect this preference and require explicit justification based on clear and articulated standards to deviate from this approach.

The Department's previous experience in analyzing targeted dumping petitions should be instructive during this process. An analysis of the elements in the targeted dumping statute exists for the Department to build on. Further, both the Department's previous experience as well as the statutory language reveal disfavor toward a targeted dumping approach. Therefore, both the Department's previous approach and the well accepted statutory preference for the weighted-average to weighted-average comparison should serve as guiding principles in the formulation of a new targeted dumping methodology.

B. The Department Should Employ Standard Statistical Techniques To Determine The Existence of Targeted Dumping; And Appropriate Standard Statistical Techniques Are Readily Available.

As the Department considers the issue of targeted dumping, it must respect two basic legal parameters. First, the statute makes explicit that the Department

¹¹ *Id.* at 843. *See also Borden*, at 1225-26.

must find a “pattern of U.S. prices . . . that differ significantly among purchasers, regions, or period of time.”¹² Second, the regulations make explicit that this pattern of significant price differences must be demonstrated through the use of “standard and appropriate statistical techniques.”¹³

Both of these legal parameters reflect basic common sense. Simply observing that an exporter sells at a lower price to a specific customer, or a specific region, or a specific period of time should not be sufficient to trigger a finding of targeted dumping. In any set of pricing data that varies, there will be some prices that are lower than others. The set of suspect transactions must differ from the others frequently enough and in a significant enough way to meet the strict statutory test. Statisticians have long thought about such issues, so it makes perfect sense that the Department regulations would also require the use of standard statistical techniques. It makes no sense for the Department to make up new approaches in an area that has been so extensively explored by standard statistics

In this Section we propose that the Department incorporate standard statistical methods to formally and reliably identify when a set of prices deviates enough to be considered targeted dumping. The *Pasta Test* was a good first attempt, but standard statistical methods allow the Department to develop and begin applying an even better methodology that more faithfully respects the statutory obligations.

There are several advantages to building upon existing statistical techniques. First, the proposed tests can be conducted using data the Department already collects

¹² 19 U.S.C. 1677f-1(d)(1)(B).

¹³ 19 C.F.R. 351.414(f)(1)(i).

in the course of its investigations. Thus, the cost of such an approach is low. Second, the methods proposed are widely accepted. The methods we discuss can be found in all introductory applied statistics and introductory econometric textbooks.¹⁴ Indeed, these ideas are developed even in the most elementary treatments of statistics.¹⁵ Third, the tests are pre-programmed in all major statistical packages (SAS, SPSS, Stata, Matlab, etc.) and can easily be conducted.

In our comments below we discuss three alternative approaches for identifying statistically significant differences in sample means. Note in each instance we assume that the Department respects the statutory requirement to consider “comparable merchandise” by continuing to do its analysis on a CONNUM by CONNUM basis. Otherwise, the Department will be comparing merchandise that is not comparable.

A first method is to employ a fixed value to determine whether a price (or set of prices) is different from the other transactions in that CONNUM. An example of such a rule would be to specify that any average price difference greater than 2%

¹⁴ Mood, Alexander M., Franklin A. Graybill, and Duane C. Boes, *Introduction to the Theory of Statistics*, 3d ed., (McGraw-Hill, New York) 1975 (discussion of tests is found on pages 386-87, 432-435); Neter, John, William Wasserman, and G.A. Whitmore, *Applied Statistics*, (Allyn and Bacon, Inc., Boston)(1978)(discussion of tests is found on pages 311-319); Hodges, Jr., J.L. and E.L. Lehmann, *Basic Concepts of Probability and Statistics*, 2d ed., (Holden-Day, San Francisco) 1970 (discussion of tests is found on page 273); Hogg, Robert V. and Allen T. Craig, *Introduction to Mathematical Statistics*, 5th ed., (Prentice-Hall, Upper Saddle River, NJ)(discussion of tests is found on pages 276-279).

¹⁵ See Jaisingh, Lloyd, *Statistics for the Utterly Confused*, 2d ed., (McGraw Hill, New York) 2000 (discussion of large sample test, pp 268-270; discussion of small sample text, pp. 327-331); “Chapter 13-Commonly Used Confidence Intervals: Formulas and Examples,” D. Rumsey, *Statistics for Dummies* (2003); “Chapter 17- Hypothesis Testing with Two Samples,” R. Donnelly, *The Complete Idiot’s Guide to Statistics* (2d ed. 2007).

We note that, although these books have somewhat whimsical titles for marketing purposes, all of the authors have PhD degrees and Rumsey is the Director of the Mathematics and Statistics Learning Center at Ohio State University.

indicates a significant price difference. The problem with such a rule is not the particular value chosen, but rather that any fixed value rule ignores important disparities in pricing variation in different cases. Any fixed value rule will be biased. In some cases it might fail to detect a “big” price difference while in others it may find differences where they do not exist.¹⁶ The fixed value rule violates a cardinal statistical principle – namely, that the case-specific variation of prices (or for that matter, any set of data) crucially affects whether average price differences can truly be considered “large” or not. In addition, the statistically valid approaches (discussed below) are only trivially more involved or complicated than this unsound – and quite frankly, indefensible -- approach.

We then discuss two statistically valid methods. In contrast with the fixed value approach, these two methods are superior because they recognize the importance of the inherent variation in the pricing data. These methods are well grounded in mainstream statistics and meet the standards of the Department’s regulations requiring “standard and appropriate statistical techniques.” In addition, given the advancement in modern computing power, the two methods discussed can be straightforwardly and inexpensively implemented using data already collected by the Department in the course of its margin calculations, or data that could be easily provided by the parties.

We begin by discussing the simplest statistical approach, a *t-test* for the difference in the mean of two independent samples. This discussion highlights two key issues: (i) the variance among the prices in the sample is critically important for

¹⁶ These mistaken inferences are referred to as “Type II” and “Type I” errors, respectively, in the statistics literature.

assessing the significance of the price difference, and (ii) sample sizes also have an important impact on the ability to draw statistically meaningful inferences.

We then discuss a more general statistical approach using linear regression. This second approach allows the Department to control for general pricing trends and other factors that may be either masking targeted dumping when it is actually present or creating the appearance of targeted dumping when there is in fact none present. Said differently, this second method allows the Department to identify unusual pricing patterns while controlling for other mitigating factors (e.g., seasonality). As a result, this second approach is often better suited to distinguishing a pattern of pricing that can be reasonably interpreted as targeted dumping. In fact, the initial “t-test” approach is a special case of the more general regression approach – but it is an approach that does not take into account other factors.

We finally offer our suggestions for how the Department should take these statistical principles and apply them to deciding which party has what burden with regard to allegations of targeted dumping.

1. A fixed value cut-off is a statistically invalid approach.

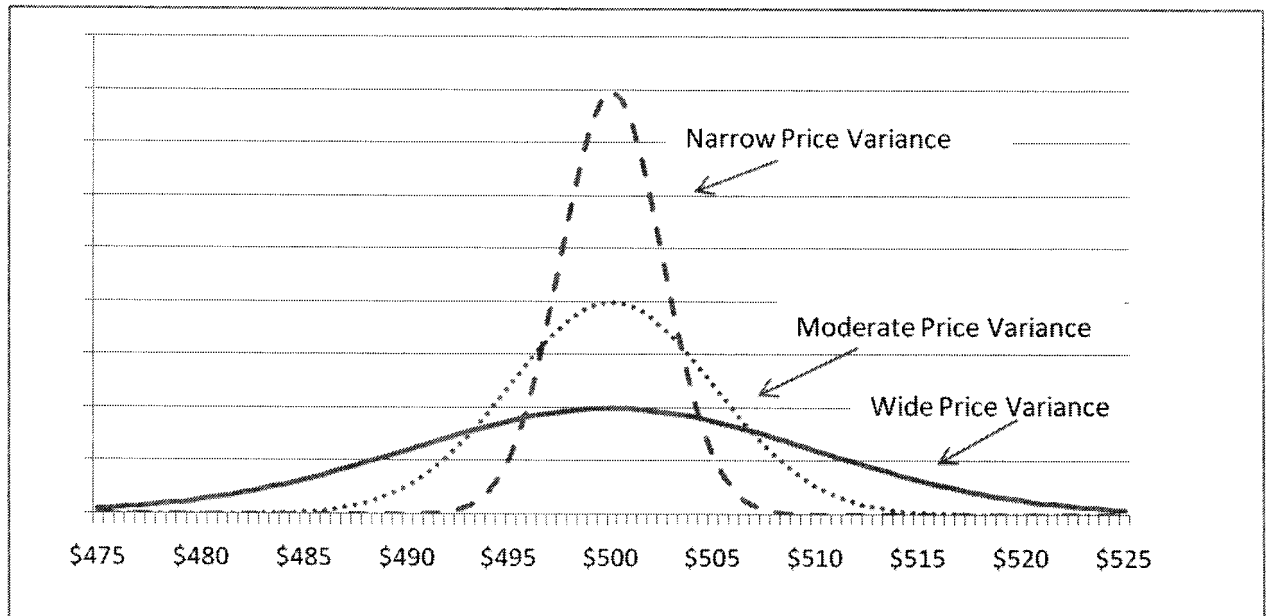
One approach for detecting allegedly “large” deviations in prices is to use a fixed value rule. For example, the Department might decide that any transaction price (or group of prices) that deviates from the mean price of the other transactions by more than 2% is a sufficiently large anomaly to serve as evidence of targeted dumping. (We understand the Department used such an approach in the recent case *Coated Free Sheet Paper from the Republic of Korea*, but limited the approach to the specific facts of that case.)

Any such fixed rule – whether it be 0.5%, 2%, or even 50% – is fundamentally flawed because it ignores the variation in the prices being considered. Depending on the degree of variability in the underlying pricing data – and statistics has well defined ways to measure this degree of variability – one may or may not be able to distinguish particularly suspect pricing from a normal degree of variability. Any approach that fails to recognize this variability is fundamentally flawed and cannot be considered an appropriate statistical technique.

Figure 1 graphically depicts how sample variation affects the observed distribution of prices. The figure depicts the distribution of U.S. prices for three hypothetical cases. In each case the average price is \$500. What is unique about each case is the extent to which prices vary. In one case the price variation is quite small; almost all prices can be expected to be very near \$500; with such narrow price variation, it would be quite surprising to observe prices less than \$490 or greater than \$510 (i.e., +/- 2% of the mean). In fact, less than 1% of all prices should be outside the +/- 2% rule. In this case, observing a price more than \$10 from the average

would be a rare event – and hence such transactions could reasonably draw additional scrutiny. In this case the 2% rule would almost never reveal any suspicious pricing.

Figure 1: Sampling Variation Affects Inference



In the second case there is moderate price variation; in this case we again expect most prices to be very near \$500; in fact, given the sample variation we should see about 95% of the prices within $\pm 2\%$ of the mean. In this case, observing a price more than \$10 from the \$500 average would arguably be an unusual event. Whether the Department interprets such a transaction as an indication of targeted dumping would almost surely require additional case- and transaction-specific information (e.g., did all such prices occur in the same region, at the same time, etc.).

In the third case there is wide price variation; in this case although most observed prices would still be near \$500, many prices would be more than $\pm \$10$ from the mean. Said differently, because prices in this case vary substantially (perhaps from month to month, customer to customer, region to region) large price

differences likely reveal nothing about alleged targeting but rather reflect the particular dynamics of this market. To wit, more than 30% of all prices would be expected to be more than \$10 (or 2%) from the \$500 average. In this case, observing a price more than 2% from the sample mean does not reliably indicate whether this price is “unusual” or deviates from the *pattern* of prices.

Sample variation thus plays an essential role in assessing significant deviations, and in identifying true deviation from the pattern from completely normal variation among the data. For this reason, no statistics textbook advocates a fixed value rule. It simply is not reliable. The lesson is clear – a price deviation can only be considered large in conjunction with some approach that reflects properly the sample variation. A fixed value rule for ascertaining “targeted dumping” (or deeming pricing deviations as significant) is inherently unreliable.

A related insight is the key role the size of the sample plays when attempting to identify pricing irregularities. Another fundamental guideline from basic statistics is that the larger the sample size, the more reliably one can draw inferences about outliers from the overall data set.¹⁷ The above graphs assume a reasonably large sample size to allow one to achieve the distribution of prices shown. As the number of transactions decreases, the ability to draw meaningful conclusions begins to diminish.

Consider a very simple example. Suppose the Department is considering pricing in a CONNUM with three transactions to three purchasers. One customer

¹⁷ Reliability increases with sample size until the number of transactions grows quite large. As we discuss below, when there is a large number of transactions the Department needs to impose greater stringency on its confidence levels.

pays \$100. The second customer pays \$96. The third customer pays \$95. Under a mechanical fixed value rule – such as a 2% test – the Department might find targeted dumping. The mean price paid by customers #1 and #2 is \$98, and the price paid by customer 3 is more than 2% below this mean price. Yet this conclusion is simply wrong. The price paid by customer 3 is only about 1% less than the price paid by customer #2 – hardly an outlier. Moreover, having only a few transactions in the “control group” gives only a modest sense of what typical pricing really is. The smaller the sample size, the more subject a mechanical fixed value rule will be to purely random and insignificant variations in the data.

Although any fixed value rule is statistically flawed and inherently unreliable, statistically valid methods do exist. Below we discuss two examples of such methods. Both are easily implemented. One common element is both of these methods appropriately reflect sample variation.

2. Using a t-test for differences in sample means¹⁸ is much more appropriate.

In a dumping case, the Department will have gathered pricing data on a foreign firm’s export pricing to the U.S. market. We now discuss why a rule that incorporates sample variation is a much more meaningful and reliable approach toward identifying targeted dumping than a fixed value rule.

Before we proceed we note that the following discussion includes some formal terminology. This is necessary for the discussion to be more precise and to reflect very standard and well established statistical concepts.

¹⁸ The discussion in this section is based on the analysis in standard applied statistics textbooks. See footnotes 14 and 15.

In what follows we argue that the Department should be comparing the average prices in one set of transactions (the suspected targeted dumping transactions) with average prices for other transactions not part of the suspect group. At a minimum, a targeted dumping test must require the differences in prices to be statistically different from each other.

Let N denote the total number of U.S. transaction prices and let p_i denote the i^{th} transaction price, with $i = 1, 2, \dots, N$. Now, suppose there are allegations of targeted dumping surrounding a subset of the transactions. How can the Department determine if there is any meaningful evidence for a targeted dumping determination?

We will refer to the sample of suspected “target dumping” prices as “ TD ” and the remaining prices as “ R ”. Let n^{TD} denote the number of transactions in the sample of suspected targeted dumping prices and n^R denote the number of transactions in the rest of the sample. By definition, $n^{TD} + n^R = N$. Let m^{TD} and m^R denote the mean price (in other words, the average price) in the suspect and remaining samples, respectively.

The Department needs to determine if there is any difference in the prices in the two samples. Simply finding that $m^{TD} - m^R < 0$ -- in other words, that the average price of the suspected targeted dumping transactions is lower than the average price of the other transaction -- does not indicate targeted dumping. From a statistical point of view, the Department needs to determine if m^{TD} is different from m^R in a statistically meaningful way. Given natural variation in pricing, one will almost always find some difference between the two means being compared. The more

meaningful questions the Department needs to answer is (i) whether these differences are truly unusual, and (ii) how confident is the Department about the inference that the differences are (or are not) unusual. Does the difference really exist or is it an illusory difference that just reflects the random variation in the underlying data?

Statisticians distinguish real from illusory differences by using the concept of a “confidence interval.” Confidence intervals use the concept of variance to convert a single mean value into a range of values that reflects the amount of variability in the underlying data being considered. Although this basic idea can be applied to a single value, it has also been applied to the very common situation of measuring the difference between two means. If that confidence interval includes zero, then we cannot say that there is any statistically meaningful difference between the mean values of the two samples.

Basic statistics texts derive a confidence interval for the difference in the two sample means as follows. Let D denote the difference between the two means, i.e., $D = m^{TD} - m^R$. We now want to determine whether this difference is significantly different than zero – in other words, is there a meaningful difference between the two means?

The variance has an important affect on the inferences that can be drawn from price comparisons. We let s_{TD}^2 and s_R^2 denote the “variances” of the two samples. We will let s^2 denote the weighted average of the two subsample variances. The variance of the overall set of data is computed by looking at the variance of both

the subset of prices suspected of being targeted dumping and the remainder of the prices.¹⁹

The concept of variance captures two key ideas. One, the variance tells us how much each individual data point deviates from the mean value (the overall average) of all the data -- the larger the difference from the mean, the larger the variance. Second, the variance gives us a sense of how many transactions deviate from the mean – the more transactions that vary from the mean, the larger the variance. Variance captures both of these ideas by summing up all of the individual differences. Variance is an extremely common statistical function that can be found in any statistical software – indeed, it can be found on many handheld calculators these days.

To determine whether the two means are significantly different from each other we need to construct a measure of the certainty that the difference is not simply due to sample variation. Statisticians call this measure of the certainty the “confidence interval.” Statisticians generally argue that one should be 95% or 99% (or sometimes as little as 90%) confident that the differences in the prices are larger than one can reasonably expect to see. If the differences are “small” compared to the

¹⁹ As discussed, the following weighted average of s_{TD}^2 and s_R^2 is the best unbiased estimator of the variance:

$$\text{VARIANCE} = s^2 = \frac{(n^{TD}-1)s_{TD}^2 + (n^R-1)s_R^2}{(n^{TD}-1) + (n^R-1)}$$

For a less formal discussion providing the same conclusion, see *The Complete Idiot's Guide to Statistics* (2d ed. 2007), at p. 258. The formal cite demonstrates the statistical appropriateness of this formula. The less formal cite confirms that this formula is completely mainstream and in fact part of even basic statistics.

normal variation in the data, then the Department cannot say the prices are statistically different.²⁰

Formally, the confidence interval is of the form $L \leq m^{TD} - m^R \leq U$, with L being the lower bound and U being the upper bound. That is, L is the smallest price gap that can be reasonably expected in the data and U is largest price gap that can be reasonably expected. In practice, if the confidence interval includes zero, then we cannot say the difference in prices is significant.

L and U can be expressed as:

$$L = D - t(1-\alpha/2; n^{TD} + n^R - 2) serr$$
$$U = D + t(1-\alpha/2; n^{TD} + n^R - 2) serr$$

Several clarifying comments are in order. First, the notation $t()$ denotes what statisticians call the “ t distribution.” This is the appropriate statistical measure of how large the difference in means (D) can be and still be considered “reasonable.”

The particular t -value in any case will depend on two different factors: the level of confidence required (α), and the number of transactions being studied ($n^{TD} + n^R$).

The t -distribution is related to the well known normal distribution (which creates the often cited “bell curve”), but does not require a very large sample size. T -distribution exists for a range of sample sizes, which makes a t -distribution more appropriate for the Department’s use in this context.

Second, the standard deviation is denoted s and the standard error is denoted by $serr$. The standard deviation is the “standard” or typical deviation in any sample.

²⁰ An analogy is in political polling. 20% of people surveyed might prefer Candidate A and 23% might prefer Candidate B. Despite the 3 percentage point gap, pollsters might deem the race a “dead heat” as the difference in polling figures may not be statistically significant.

The standard deviation is related to the variance; formally, the variance (s^2) is just the square of the standard deviation (s). (Squaring the standard deviation allows this method to include both positive and negative variation from the mean, and treat them equally.) The standard error is a measure of the estimated standard deviation of the error.²¹

Third, with respect to the level of confidence, the confidence coefficient, $1-\alpha$, indicates the probability that the differences in the sample reflect true differences. As mentioned, statisticians typically choose the 95% confidence level (i.e., $\alpha=0.05$). Sometimes statisticians apply a higher standard (99% confidence) or a lower standard (90% confidence). In mainstream statistical analysis, 95% is the most commonly used benchmark.²² But most statisticians would rarely be comfortable drawing reliable conclusions about differences in means with a confidence level of less than 90%. As a rough rule of thumb, the 95% confidence interval means that the difference in prices must be more than two standard deviations from the mean.

Fourth, with respect to the number of transactions being investigated, the larger the number of transactions the more confidence we can have that the sample is truly representative. Too few observations make it hard, if not impossible, for the Department to confidently assert prices are unusual. In the language of statisticians

²¹ In general, $serr = s/n^{1/2}$. In our case, since we have a weighted average variance,
 Std Error = $serr = s \left(\frac{1}{nT^2} + \frac{1}{nR} \right)^{1/2}$:

²² See *Statistics for Dummies*, at p. 199 (“What level of confidence is typically used by researchers? I’ve seen confidence levels ranging from 80% to 99%. The most common confidence level is 95%.”).

we require that the number of transactions in each subsample is “large.”²³ As a practical matter, statisticians typically use as a rule of thumb that one must have at least 30 transactions to be considered “large.” The beauty of a t-distribution, however, is that it can work for smaller samples. When the sample size becomes larger, the t-distribution begins to approximate the normal distribution.

This lesson has an important implication. If the number of suspected transactions is small (fewer than 30), it becomes increasingly difficult for the Department to find targeted dumping in a statistically meaningful way. In this regard, standard statistics gives the Department a well recognized and accepted rule of thumb for finding what the statute calls a “pattern” of prices: If there are not at least 30 transactions in a particular subset of prices being evaluated for possible targeted dumping, then there cannot be a “pattern” of targeted dumping.

We believe it is reasonable for the Department to simplify its work by simply recognizing that with small samples, it becomes harder to have strong confidence in conclusions and therefore small samples cannot legally support a finding of targeted dumping. If the Department believes it should take on this burden and increase its work, at a minimum the Department must use a t-distribution that recognizes explicitly that as the sample size becomes smaller, the uncertainty becomes greater. For example, the value of the t-distribution for a sample of 30 is 2.042. If the sample size drops to 5, however, the value of the t-distribution increases to 2.571. In other

²³ Alternatively, we can assume that the sub-samples of prices are drawn from a normal distribution. This assumption is unlikely to be verified in practice. More importantly, such an assumption is not required if the number of transactions in each sub-sample is reasonably large, e.g., greater than 30.

words, the confidence interval will be much larger, and it will be harder to identify a statistically meaningful difference.²⁴

Although we recognize the above discussion is fairly technical, we stress that in practice the t-test can be very easily implemented by the Department. All major statistical programs have this test pre-programmed (“built-in”). With the pricing data already collected by the Department, a t-test can be calculated on any recent vintage laptop in a matter of seconds. Indeed, many basic texts show how to do precisely this calculation in Excel, which under “Analysis Tools,” has a function called “t-test: two-sample assuming unequal variance.”²⁵ This particular calculation is so common and so basic that Excel makes it part of the standard package of ready to go calculations.

We now present a couple of examples to highlight how this test can help the Department identify unusual pricing. The examples highlight two important ideas. First, we show that the method will indicate significant price differences in some cases but not in others. The method is not pre-disposed to finding one answer or another. (This is precisely why statisticians advocate this method.) Second, we show that a small sample of transactions makes it less likely that the Department will be able to conclude there has been unusual pricing.

²⁴ See *Statistics for Dummies*, at pp. 233-235. Note since prices could be too high or too low, we are using a two-tail test, which corresponds to the 97.5 percentile in this table of t-distributions. Note that as the number of observations becomes large, it begins to approximate the Z-value of the normal distribution, or 1.960. This is the source of the often cited “two times standard deviation” rule of thumb – 2.0 is quite close to 1.960.

²⁵ See *The Complete Idiots Guide to Statistics* (2d ed. 2007), at pp 262-262.

a. **Example 1 (small sample):**

In the example, suppose the Department has only 20 prices in the suspected category and just 25 other prices (i.e., $n^{TD}=20$ and $n^R = 25$). As we indicated in our discussion, too few transactions make it more difficult (but not impossible) for the Department to infer the pricing is unusual.

Let's suppose that the underlying pricing data showed the following:

$$\begin{aligned} n^R &= 25 ; & m^R &= 169 ; & s_R &= 58 ; \\ n^{TD} &= 20 ; & m^{TD} &= 155 ; & s_{TD} &= 51 ; \end{aligned}$$

Let's also assume that the Department desires a 95 percent confidence interval to measure whether prices are unusually high or unusually low. In this case the above formulas imply:

$$\begin{aligned} m^{TD} - m^R &= -14 \\ \text{serr} &= 18.3 \end{aligned}$$

Using the normal approximation the confidence interval is:

$$-46.3 \leq m^{TD} - m^R \leq 18.3$$

Therefore, we cannot conclude that the difference is not zero (zero is between -46 and +18). Hence, in this example we conclude that the difference in the prices is not significant. There is no basis to conclude there is targeted dumping.

b. **Example 2 (large sample):**

This example is similar to the first example, except we now assume that the Department has a larger set of transactions to evaluate the pricing differences.

In the example, suppose $n^{TD}=200$ and $n^R = 250$. The results of the investigation were

$$\begin{aligned} n^R &= 250 ; m^R = 169 ; s_R = 58 ; \\ n^{TD} &= 200 ; m^{TD} = 155 ; s_{TD} = 51 ; \end{aligned}$$

Again, let's assume a 95 percent confidence interval is $m^{TD} - m^R$ is desired.

$$\begin{aligned} m^{TD} - m^R &= -14 \\ \text{serr} &= 5.2 \end{aligned}$$

Using the normal approximation the confidence interval is

$$-24.2 \leq m^{TD} - m^R \leq -3.7$$

Therefore, in this example it can be concluded that the difference in the prices is significant. There may be evidence that there is targeted dumping. One of the statistical benefits of larger sample sizes is that the confidence interval becomes narrower, and thus one can draw stronger conclusions about the true value of any difference in the two means being considered.

This approach is statistically rigorous and flexible. It can be used to capture differences in the sample sizes and can be adjusted to reflect different levels of confidence in the conclusions being drawn. We recommend that the Department use this rigorous approach.

However, if the Department considers this approach too burdensome, the Department could use a shortcut. A common rule of thumb for determining whether a particular value is different from a mean of a data set is to ask if the particular value is more than two standard deviations from the mean.

The shortcut is rooted in the fact that most tests are based on the 95% confidence level. In this case the lower and upper bound formulas (given above) are

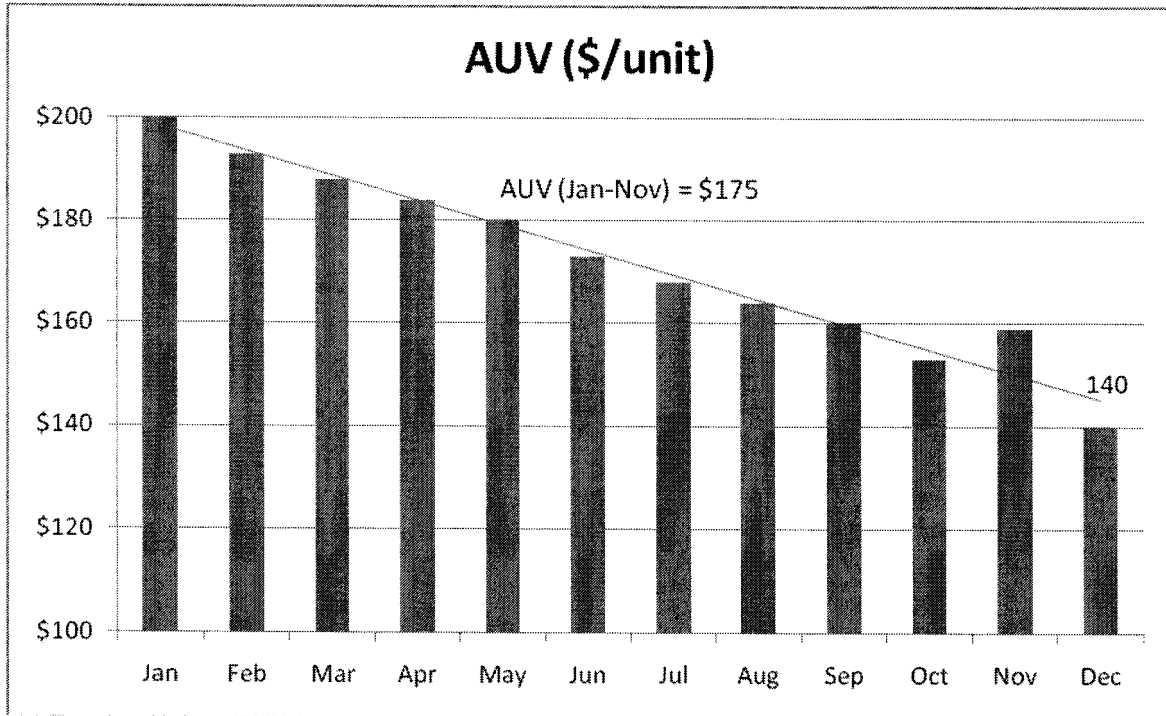
very close to +/-2 standard deviations. This shortcut is reasonably accurate as long as the number of transactions is fairly large (30 or larger). It is easier to implement than the exact test and can serve as a good “first pass” to determine whether there is need to do a more rigorous examination of targeted dumping. We think, however, that in most cases the Department should do the more precise t-test in advance of any final determination of targeted dumping.

3. The Department should also consider evidence that accounts for other differences, including where appropriate multivariate regression analysis.

Although the t-test of the difference between sample means has the virtues of being convenient and easy to implement, it has a potentially important shortcoming. Namely, it does not account for other trends and patterns in the data. In this section we discuss how the Department can simply and easily augment its comparison methods to control for these concerns.

Consider, for example, the pricing data in the figure below. Here the market price is in decline throughout the period. This might be due to the exchange rate or any number of other factors (e.g., weak demand, a surge in non-subject imports, etc.) Now, suppose the Department is concerned that the December price – the lowest price during the period – reflects targeted dumping. The average price for Jan-Nov period is \$175 which compares with the December price of \$140. It is clear that the approach discussed above might indicate that December’s price is significantly different than the average price during the rest of the period.

Figure 2: Example of Pricing



The statute requires a showing that there is a “pattern” of price differences. It is not obvious that December’s price (\$140) is different from the pattern of prices in the rest of the period. It seems far more likely that December’s price is simply a continuation of the pattern of prices. How can the Department handle such cases?

In some instances, the reason for the price difference may be obvious once it is pointed out. For example, if one of the U.S. customers is Wal-Mart, it should hardly come as a surprise to anyone that buying very large volumes means that Wal-Mart obtains very low prices. For the Wal-Mart price to be lower than the average price charged to other smaller volume customer should strike no one as aberrational in any way. Similarly, if one were observing a consistently declining price trend -- some products, such as consumer electronics, often experience constantly declining prices -- the prices at the end of the period would quite naturally be expected to be

below the average for the entire period. In these cases, the Department can easily discern the reason for lower prices and conclude that the lower prices do not present any true evidence of targeted dumping. But in other cases the pricing phenomenon may be more complex. Instead of a steady price decline, one might have seasonality for agricultural products. In such a case, discerning what is truly abnormal in a statistical sense is more complex.

As it turns out, statisticians have long been aware of such problems and have developed widely accepted techniques to handle such inference issues. From a statistical perspective, the Department needs to extend the methodology to a *multivariate regression* framework. Regression is a statistical technique to account for a variety of independent influences on the variable of interest. In the current application, the Department needs to assess whether a particular set of prices differs from the general pattern of prices. In the example, the prices in question involve transactions during a specific period of time (e.g., December). More generally, the Department will need to evaluate whether prices from a particular exporter or sales to a particular U.S. purchaser are significantly below other prices.

Regression analysis can be written:

$$P_i = b_0 + b_1X_{1i} + b_2X_{2i} + \dots + b_nX_{ni} + e_i,$$

Where P_i is the price of the i^{th} transaction, X_{ji} is the values of the j^{th} explanatory variable for the i^{th} transaction, and the b_0, b_1, b_2, b_n are parameters to be estimated.

The idea is that the Department can control for a variety of factors that explain the pattern of prices in the U.S. market. One of the control variables (the X 's

in the above equation) would be an indicator (also called a dummy variable) that captures the targeted dumping allegation.

In the simplest case, one might only have a single control variable, and in this case the regression method will produce results identical to those in the t-test method discussed above. More typically, however, the Department will want to control for multiple influences on pricing. By doing so, the Department will be able to distinguish specific occurrences of targeted dumping from the overall pattern in pricing.

To clarify these ideas, in the table we present regression parameter estimates for the pricing data given in the above Figure 2.²⁶

Figure 3: Accurately Detecting Trend to Identify Targeted Dumping

	(1)	(2)
	No Adjustment for Pattern in Prices	Adjusted for Pattern (or trend)
December Price	-17.215 (5.15)** [pvalue = 0.001]	3.394 (1.01) [pvalue = 0.34]
Constant	145.663 (19.34)** [pvalue = 0.000]	202.569 (210.46)** [pvalue = 0.000]
Observations	11	11
R-squared	0.75	0.99

Both regressions adjusted for serial correlation (Durbin-Watson adjustment via the Cochrane-Orcutt procedure)

Absolute value of t statistics in parentheses

p-values in brackets

* significant at 5%; ** significant at 1%

In the first column we do not control for the overall downward pattern in prices over the period. As seen the December indicator is negative (i.e., prices are

²⁶ Both regressions use the Cochrane-Orcutt adjustment to the basic linear regression estimation. This resolves the serial correlation issue.

lower than average) and is highly significant (p value less than 0.05). This would suggest that December prices might reflect targeted dumping.

But this initial conclusion is fundamentally flawed. In the second column we control for the general pattern (or trend) in the pricing data. This additional control captures the statute's requirement that the particular prices under scrutiny (December prices) represent a pattern that differs in some meaningful way from the overall pattern. As seen, once the overall pattern is controlled for, we find that not only are December's prices not lower than expected but also that the estimate is not statistically significant (p value >0.05).

The statute specifies looking at possible patterns among purchasers, regions, or periods of time. Using simple regression analysis, one could easily consider each of these possibilities in a statistically appropriate way. In each instance, the Department could use what statisticians call "dummy variables" to set the purchaser, region, or period of time at issue equal to 1 and the other purchasers, regions, or periods of time equal to 0. If the parameter estimate on the dummy variable is negative, and statistically significant, then the Department will have established evidence of possible targeted dumping.

This approach is quite flexible. The analysis could be extended to consider other factors that might explain the pattern of pricing. For example, although the price to a particular purchaser might seem unreasonably low at first, once the Department considers the effect of purchaser size on the price paid, the apparent difference might disappear. Although the price to a particular region might seem unreasonably low at first, once the Department considers the timing of the

transactions that difference might disappear. Prices could be simply trending down, and the sale to a certain region happened at the end of the period.

4. A suggested framework for the Department's analysis.

The discussion below suggests a simple set of policy rules that would allow the Department to identify those instances in which there might be true targeted dumping.

Rule #1: Targeted dumping can only be found when there are more than 30 transactions overall within a particular CONNUM.

This rule reflects the statutory requirement that there be a "pattern" of U.S. prices that have been targeted and are "significantly" different in some way. For sample sizes smaller than 30, mainstream statistics suggests that it is difficult to draw reliable conclusions about a true pattern versus random variation in the data. Without more than 30 transactions, it becomes difficult to reliably find a "pattern" and one cannot say that the pattern reflects a "significant" difference.

We believe that a cut of more than 30 transactions reflects a neutral threshold commonly used in statistical analysis. Even if the Department decides to reject this commonly used "rule of thumb" for statistical analysis, the Department should adopt some explicit numerical threshold below which allegations of target dumping cannot be considered. If the threshold is some smaller number, some specific threshold to eliminate frivolous allegations is better than no threshold at all.

Rule #2: Target dumping can only be found when there is a difference between the mean of the allegedly targeted dumping transactions and the mean of the remaining transactions in that CONNUM that is statistically significant at the 95% level.

In every case, the data normally collected by the Department would allow application of the well established statistical methods to test the difference between two means. This test could be easily programmed within SAS or Excel and applied to existing data bases.

We believe that a 95% confidence level reflects the standard statistical approach. The Department may decide to impose a higher standard, but in no case should it consider a standard lower than 90%. In standard statistical analysis, 90% is the minimum level of confidence normally used in drawing conclusions. Anything less than 90% would not meet the statutory standard of a “significant” price difference. But as with the comments above about sample size – some specific definition of the required level of confidence is better than no standard at all.

We also believe the burden should be placed on petitioners to allege targeted dumping based on the application of the difference in means test, applied to that characteristic – purchaser, region, or time – alleged to be the subject of targeted dumping. Petitioners routinely receive and analyze respondents’ data bases. There is no reason for the Department to pursue this issue unless petitioners present a credible allegation of targeted dumping that meets this basic statistical test.

Rule #3: Respondents can rebut an allegation of targeted dumping by showing that some other factor explains the appearance of targeted dumping.

In those cases where there might appear to be targeted dumping, more careful and more detailed analysis is necessary. In this situation, the burden should switch to respondents to present arguments and evidence that some other factor explains the apparent targeted dumping.

We think it is reasonable to place this burden on respondents, since respondents are in the best position to understand what other factors may have been affecting their export prices to the United States. Respondents are also in the best position quickly to gather the data necessary to test whether these other factors are in fact the true explanation of the pricing pattern.

Respondents should have the flexibility to submit any arguments and evidence that makes this point. Sometimes it may be sufficient simply to present the data in a different format. Sometime it may be necessary to present simple multi-variable regression to show whether some other factor in fact explains the apparent targeted dumping, and that when this factor has been considered the allegation of targeted dumping has no statistical significance.

C. Before Deciding To Employ A Separate Antidumping Calculation Methodology for Those Sales Transactions Meeting The Targeted Dumping Criteria The Department Must Faithfully Apply The “Take Into Account” Language of The Statute.

The targeted dumping provision applies to three categories of targets: “purchasers, regions, or periods of time”²⁷ But the provision can only be

²⁷ 19 U.S.C. 1677f-1(d)(1)(B)(i).

applied if the Department first explains why price differences among these groups “cannot” be taken into account using the weighted-average to weighted-average methodology.²⁸ Because the Department can delineate averaging groups by purchasers, regions, and periods of time, it can virtually always take account of such differences using the weighted-average to weighted-average method. Thus, a targeted dumping analysis should rarely, if ever, be applied, for the reasons discussed in detail below.

A targeted dumping analysis in an investigation under 19 U.S.C. 1677f-1(d)(1)(B) is expressly an “Exception.” This is because it deviates from Congress’ intent that “Commerce normally will establish and measure dumping margins on the basis of a comparison of a weighted-average of normal values with a weighted-average of export prices or constructed export prices.”²⁹ Consequently, the targeted dumping provision may be applied only when the Department first “explains why such differences cannot be taken into account using” the preferred weighted-average to weighted-average method.³⁰ In other words, before the targeted dumping exception may be applied the Department must consider and describe why each of the various grouping and adjustment authorities available to it cannot isolate dumped sales that are thought to be targeted at particular purchasers, regions, or

²⁸ *Id.* at 1677f-1(d)(1)(B)(ii). These comments focus on the weighted-average to weighted-average methodology, which is to be used in virtually every investigation. Their substance does not vary for those rare investigations where the transaction-to-transaction methodology may legitimately be applied under 19 U.S.C. 1677f-1(d)(A)(ii).

²⁹ SAA at 842.

³⁰ 19 U.S.C. 1677f-1(d)(1)(B)(ii).

periods of time, and apply the weighted-average methodology to calculate dumping margins for these groups of sales.

The extensive analytical tools at the Department's disposal create an extremely high hurdle for application of the targeted dumping provision, because potentially dumped sales to particular groups of purchasers, regions, or time periods can be isolated in virtually every instance for application of the preferred weighted-average to weighted-average methodology. Sales lists always report the customer, place and time of every sale, so the basic data are always on the record for the analysis. More specifically, groups easily may be delineated for averaging based on purchaser, region, and time of sale in every case where a sales list is submitted. Questionnaire data, therefore, allow the Department to create averaging groups to "take account" of suspected targeting of readily identifiable purchasers, regions or periods of time. Indeed the SAA contemplates that:

In determining the comparability of sales for purposes of inclusion in a particular average, Commerce will consider factors it deems appropriate, such as the physical characteristics of the merchandise, the **region** of the country in which the merchandise is sold, the **time period**, and the **class of customer** involved.³¹

Delineation of averaging groups 'takes account' of potential targeted dumping because it avoids the masking of dumping through averaging, a key congressional concern and the basic premise for the targeted dumping provision.³² When there are different prices within a grouping -- some dumped and some not -- that are combined into a single average for the dumping comparison, the dumped sales are masked to

³¹ SAA at 842 (emphasis added).

³² *Id.*

some degree. This is avoided when the sales at different prices are segregated for the dumping comparisons, in other words when different averaging groups are created. In this manner, through distinct grouping, masking is avoided. It is avoided for groups of purchasers, regions, and times when averaging groups are defined by these criteria. Application of the weighted-average to weighted-average dumping calculation to these averaging groups ‘takes account’ of potential targeted dumping to purchasers, regions and times by removing possible masking of dumping margins. With this, application of the targeted dumping provision is unnecessary and, in fact, illegal.

Grouping in this manner for the weighted-average to weighted-average comparison is expressly contemplated by regulation. For example, Section 351.414(d)(2) (emphasis added) provides that an averaging group may be delineated by “the **region** of the United States in which the merchandise is sold, and **such other factors** as the Secretary may consider appropriate.” Section 351.414(d)(3) allows the averaging groups to cover **time periods** shorter than the period of investigation. And Section 351.412 provides for the common practice of defining averaging groups by purchasers’ level of trade. This use of averaging groups within each CONNUM is consistent with the definition of the “weighted-average dumping margin”³³ because the single average is calculated from the statute’s “aggregate dumping margins” as grouped by purchasers, regions, or times.

Moreover, the statute places the burden squarely on the Department to explain why its grouping authority “cannot” be used to delineate groups for

³³ 19 U.S.C. 1677(34)(B).

averaging by purchaser, region, or time (i.e., targeted dumping may be applied only if “the administering authority explains why”).³⁴ If the Department does not meet this affirmative obligation to explain why each of its many grouping authorities cannot be applied in a particular case to isolate suspected groupings of dumping and thereby “take account” of price differences by removing masking, then the express statutory threshold for application of a targeted dumping analysis will not have been met.

In sum, the Department can virtually always create an averaging group, specific to a CONNUM, that is defined by region, time, or customer type. As such, the Department can in almost every case take account of price difference among groups of purchasers, regions, and times using the weighted-average to weighted-average methodology. Consequently, the instances when the Department may apply the targeted dumping provision are rare.

D. The Department Should Not Continue Its Recently Adopted New “Double Zeroing” Practice When Calculating Antidumping Margins For Those Sales Transactions That Receive A Targeted Dumping Margin Calculation.

Our understanding is that in the CFS paper antidumping case the Department adopted a four step approach for calculating antidumping margins for those sales transactions that the Department found met the criteria for “targeted dumping.”

First, the Department separated total U.S. sales into two groups: (a) those sales that met the definition of targeted dumping (referred by the Department as “targeted sales”) and (b) all other sales (referred to by the Department as “non-targeted sales.”).

Second, for the “targeted” U.S. sales, the Department applied its average-to-transaction antidumping calculation methodology and did not offset positive

³⁴ 19 U.S.C. 1677f-1(d)(1)(B)(ii).

dumping margins with negative dumping margins; that is, the Department employed “zeroing” when calculating the antidumping margin for these sales.

Third, for the non-targeted sales, the Department applied the average-to-average antidumping calculation methodology and did allow positive margins to be offset by negative dumping margins; that is, the Department did not employ zeroing.

Fourth, when calculating a final overall weighted average margin for the exporter, the Department did not allow any positive margins from sales to be offset by any negative margins; that is, the Department zeroed the negative margins for the targeted and non-targeted sales.

JISF urges the Department to discontinue this double zeroing practice because it violates the Department’s own recent statement of a change in policy and the WTO Antidumping Agreement.

JISF recognizes because the Department has never before found targeted dumping, neither the U.S. courts nor the WTO has had an opportunity to analyze the propriety of employing zeroing when calculating antidumping margins for “targeted sales,” utilizing an average-to-transaction comparison methodology, in original investigations. However, the WTO Appellate Body has ruled definitively that the Department’s practice of zeroing when using the average-to-transaction comparison methodology in administrative reviews is inconsistent with the WTO Antidumping Agreement.³⁵ Because the average-to-transaction comparison methodology that the Department employed when analyzing “targeted sales” is **identical** to the average-to- transaction comparison methodology used in administrative reviews, the application of zeroing when using such calculation methodology is equally inconsistent with United States obligations under the WTO Antidumping Agreement.

³⁵ See *United States – Measures Relating to Zeroing and Sunset Reviews, Report of the Appellate Body*, WT/DS322/AB/R (January 9, 2007)

Accordingly, JISF submits that there is no justification to employ zeroing when calculating antidumping margins for “targeted sales.” (In this regard we note that both the Department itself and the Courts have admitted that zeroing is not required by either the statute or the Department’s regulations, and therefore the Department is completely free to change its practice.)

Likewise, JISF also submits that there is no justification for employing zeroing when calculating an overall weighted-average antidumping margin for the exporter. Indeed, JISF submits that application of zeroing in this instance is directly contrary to the Department’s own recent statement of policy. Specifically, in response to various WTO decisions, late last year the Department finalized its decision to abandon its zeroing practice in original investigations in which the average-to-average comparison is employed.³⁶ The Department’s statement of its new policy was clear and direct:

The Department will no longer make average-to-average comparisons in investigations without providing offsets for non-dumped comparisons.³⁷

However, when calculating the overall weighted-average margin in the CFS paper case, the Department did precisely what it said it would no longer do: It calculated an antidumping margin in an original investigation using the average-to-average comparison methodology (for non-targeted sales) without providing an offset for non-dumped comparisons. Or stated differently, by zeroing out the negative

³⁶ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation*, 71 Fed. Reg. 77,722 (December 27, 2006).

³⁷ *Id.* at 77,722 (emphasis added).

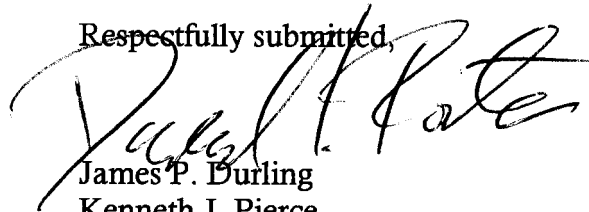
margins on non-targeted sales, the Department acted contrary to its own published promise to stop its zeroing practice.

JISF respectfully urges the Department to abide by its own recent statement of policy and the WTO Appellate Body decisions when adopting a new practice for calculating antidumping margins for those sales transactions meeting the criteria of targeted dumping.

Conclusion

JISF appreciates the opportunity to provide this submission in response to the Department's request for comments regarding the development of a targeted dumping methodology. If you have questions about these comments, please contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel L. Porter", is written over the typed name below.

James P. Burling
Kenneth J. Pierce
Daniel L. Porter

Vinson & Elkins LLP