

space and scheduling constraints permit.

Referrals from political organizations and any documents, including the application, containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

The mission will be promoted through the following venues: ITA's Export Assistance Centers; the Energy Team; the Environment Team; the Asia Pacific Team; the Africa, Near East, and South Asia Team; Global Trade Programs; the Trade Events List <http://www.export.gov>; industry newsletters; the **Federal Register**; the Asia-Pacific Partnership for Clean Development and Climate; relevant trade publications; relevant trade associations; past Commerce trade mission participants; various in-house and purchased industry lists; the Commerce Department trade missions calendar: <http://www.ita.doc.gov/doctm/tmcal.html>; and the Web: <http://www.export.gov/cleanenergymission>.

FOR FURTHER INFORMATION CONTACT:

Brian O'Hanlon, Office of Energy and Environment, U.S. Department of Commerce, E-mail: cleanenergymission@mail.doc.gov, Telephone: 202-482-3492.

Debra Delay, Global Environmental Technologies Deputy Team Leader, Boston U.S. Export Assistance Center, U.S. Department of Commerce, E-mail: debra.delay@mail.doc.gov, Telephone: 617-565-4302. Mission Web site: <http://www.export.gov/cleanenergymission>.

Dated: May 6, 2008.

Stephen Jacobs,

Deputy Assistant Secretary for Market Access and Compliance.

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DEPARTMENT OF COMMERCE

International Trade Administration

Proposed Methodology for Identifying and Analyzing Targeted Dumping in Antidumping Investigations; Request for Comment

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("the Department") seeks public comment on its proposed targeted dumping methodology (described below) and related issues.

DATES: Comments must be submitted within 30 days from the publication of this notice.

ADDRESSES: Written comments (original and six copies) should be sent to David Spooner, Assistant Secretary for Import Administration, U.S. Department of Commerce, Central Records Unit, Room 1870, 14th Street & Constitution Ave., NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Anthony Hill, International Economist, Office of Policy, or Michael Rill, Director, Antidumping Policy, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: 202-482-1843 or 202-482-3058, respectively.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 777A(d)(1)(A) of the Tariff Act of 1930 (the "Act"), the Department normally will calculate dumping margins in investigations by comparing weighted-average export prices to weighted-average normal values or transaction-specific export prices to transaction-specific normal values. Section 777A(d)(1)(B) of the Act allows the Department to use, under certain circumstances, an alternative methodology for determining the extent of dumping in an investigation. The alternative methodology is a comparison of transaction-specific export prices to weighted-average normal values. In order to use this alternative methodology, the Act requires the Department to find that there is a pattern of export prices (or constructed export prices) that differ significantly among purchasers, regions, or periods of time. See section 777A(d)(1)(B)(i) of the Act. In addition, the Act requires the Department to explain why the differences cannot be taken into account using one of the normal calculation methodologies. See section 777A(d)(1)(B)(ii) of the Act.

The Department's experience with regard to analyzing targeted dumping claims is limited and to date, no standard targeted dumping test for general application has been adopted. In response to a 1999 remand in the antidumping investigation of certain pasta from Italy, the Department created and utilized a targeted dumping test (the "Pasta Test") to analyze U.S. price data in that case, and found no targeted dumping. See *Borden, Inc. v. U.S.*, 1999 WL 397968, *2 (CIT June 4, 1999) ("*Borden Remand*") (citing Department's Remand Redetermination at 17 ("*Remand Redetermination*"). The Department noted that it reserved

the discretion to alter its methodology in future cases. See *Borden Remand*, 1999 WL at *1 (citing *Remand Redetermination* at 15).

In the antidumping investigation of coated free sheet paper from the Republic of Korea ("CFS paper"), the Department accepted petitioner's allegation for purposes of undertaking a targeted dumping analysis in that proceeding. Based on that allegation, the Department found that there was a pattern of prices that differed significantly among purchasers and regions and that those differences could not be taken into account using the average-to-average or transaction-to-transaction methodology. See *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the Republic of Korea*, 72 FR 60630 (October 25, 2007), accompanied by Issues and Decision Memorandum, Comments 2, 4, and 5. Again, the Department also acknowledged that it had not yet established a general set of standards for accepting and analyzing a targeted dumping allegation. See Memorandum to David M. Spooner entitled "Antidumping Duty Investigation of Coated Free Sheet Paper from the Republic of Korea—Targeted Dumping," from Stephen J. Claeys, dated September 7, 2007.

More recently, in the preliminary determinations in the antidumping investigations of certain steel nails from the United Arab Emirates and the People's Republic of China, the Department preliminarily accepted petitioner's targeted dumping allegations but noted that it was still in the process of developing a new test. See *Certain Steel Nails from the United Arab Emirates: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 3945 (January 23, 2008) and *Certain Steel Nails from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances and Postponement of Final Determination*, 73 FR 3928 (January 23, 2008).

In order to establish a standard test for general application in analyzing a targeted dumping allegation, the Department solicited and received a first round of comments on the principles and standards that should be employed as part of a targeted dumping test. See *Targeted Dumping in Antidumping Investigations; Request for Comment*, 72 FR 60651 (October 25, 2007). The Department received nineteen sets of comments in response to that request.

Proposed Methodology

In the recent post-preliminary determination memorandum in the antidumping investigations of certain steel nails from the United Arab Emirates and from the People's Republic of China, the Department announced and applied a new targeted dumping standard and methodology for analyzing a targeted dumping allegation. See Memorandum to David M. Spooner entitled "Post-Preliminary Determinations on Targeted Dumping," from Stephen J. Claeys, dated April 21, 2008.

For future investigations, the Department proposes to adopt this new methodology for determining whether targeted dumping exists. The methodology involves a two-stage test: the first of which addresses the pattern requirement and the second addresses the significant difference requirement. All price comparisons would be done on the basis of identical merchandise. The test procedures described below are the same for customer, region or time-period targeting, even though the example given below involves customer targeting. The first stage of the test, referred to as the "standard deviation test," would provide that the Department determine, on an exporter-specific basis, the share of the allegedly targeted customer's purchases of subject merchandise, by sales value, that are at prices more than one standard deviation below the weighted-average price to all customers of that exporter, targeted and non-targeted. If that share exceeds 33 percent of the total value of the exporter's sales of subject merchandise to the allegedly targeted customer, then the pattern requirement is met. The calculation of the standard deviation would be done product-by-product (*i.e.*, "control number" by "control number") using period of investigation ("POI")-wide average prices (weighted by sales value) for each allegedly targeted customer and each distinct non-targeted customer.

If the first test is met, in the second stage, the Department would examine all the sales of identical merchandise by that exporter to the allegedly targeted customer for which the standard deviation requirement is met and determine the total sales value for which the difference between (i) the sales-weighted average price to the allegedly targeted customer and (ii) the next higher sales-weighted average price to a non-targeted customer exceeds the average price gap (weighted by sales value) for the non-targeted group. Each of the price gaps in the non-targeted group would be weighted

by the combined sales associated with the pair of prices to non-targeted customers that make up the gap. If the share of the sales that meet this test exceeds 5 percent of the total value of sales of subject merchandise to the allegedly targeted customer, the significant difference requirement is met and the Department would determine that customer targeting has occurred.

Request for Comments

In addition to comments on the methodology described above, the Department requests comments on appropriate criteria and standards for the definitions of "region" and "time period." Please comment on the extent to which the definitions for region and time period in a targeted dumping allegation should be reflective of the industry and commercial market in the United States.

Also, as the statute allows targeted dumping allegations with respect to customers, regions, or time periods, the Department requests comment on how it should handle multiple allegations made with respect to one respondent, (*i.e.* a respondent is allegedly targeting certain customers and certain regions). For example, when calculating non-targeted customer weighted-average sales prices in the second stage (the gap test), should the Department exclude sales to an allegedly targeted region? Please also comment on what standards, if any, the Department should adopt for accepting an allegation of targeted dumping. For example, should some type of *de minimis* threshold apply to the sales on which an allegation is based, either in terms of the quantity of control numbers or share of sales covered? Finally, the Department requests comment on the application of the alternative calculation methodology (average-to-transaction comparison) and the conditions, if any, under which the alternative methodology should apply to all sales to the target even if some sales of a control number do not pass the targeted dumping test.

Submission of Comments

Persons wishing to comment should file a signed original and six copies of each set of comments within 30 days of publication of this notice. The Department will consider all comments received by the close of the comment period. Comments received after the end of the comment period will be considered, if possible, but their

¹ For example: If non-target A's weighted-average price is \$1.00 with total value of \$100 and non-target B's weighted-average price is \$.95 with total value of \$120, then the difference of \$.05 (\$1.00 - .95) would be weighted by \$220 (\$100 + 120).

consideration cannot be assured. The Department will not accept comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them in its development of a targeted dumping analysis. The Department requires that comments be submitted in written form. The Department also requests submission of comments in electronic form to accompany the required paper copies. Comments filed in electronic form should be submitted either by e-mail to the webmaster below, or on CD-ROM, as comments submitted on diskettes are likely to be damaged by postal radiation treatment.

Comments received in electronic form will be made available to the public in Portable Document Format (PDF) on the Internet at the Import Administration website at the following address: <http://ia.ita.doc.gov>. Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to Andrew Lee Beller, Import Administration Webmaster, at (202) 482-0866, email address: webmaster-support@ita.doc.gov.

Dated: May 6, 2008.

David M. Spooner,
Assistant Secretary for Import
Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XH31

Taking and Importing of Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; affirmative finding renewal.

SUMMARY: The Assistant Administrator for Fisheries, NMFS, (Assistant Administrator) has renewed the affirmative finding for the Government of Mexico under the Marine Mammal Protection Act (MMPA). This affirmative finding will allow yellowfin tuna harvested in the eastern tropical Pacific Ocean (ETP) in compliance with the International Dolphin Conservation