

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

**REQUEST FOR COMMENT:
DIFFERENTIAL PRICING ANALYSIS
U.S. FEDERAL REGISTER 79FR26720**

May 9, 2014

Submitted by:

The Canadian Embassy

Washington, D.C.

June 23, 2014

INTRODUCTION

The Government of Canada is pleased to provide the following comments on the Department of Commerce's ("the Department") "differential pricing analysis", further to the notice published in Federal Register volume 79, No. 90 of May 9, 2014 ("the notice").

OBSERVATIONS/ COMMENTS

Canada notes that prior to 2007, the targeted dumping provision had scarcely been used. This has markedly changed in more recent proceedings. The Department now applies its newly introduced methodology, the "differential pricing analysis", without an allegation by petitioners, in each segment of a proceeding. Since the introduction of the new methodology, a much higher incidence of targeted dumping has been found.

Canada would like to reiterate its position, previously stated when commenting on the Department's proposed "Targeted Dumping Analysis", that a targeted dumping methodology is only applicable in exceptional situations. This is confirmed by the language in Article 2.4.2 of the *Anti-Dumping Agreement*. Any methodology used to determine whether targeted dumping exists should be rigorous enough to reflect the fact that situations of targeted dumping are exceptional in nature.

Canada considers that the notice contains useful information regarding the Department's new methodology. However, more detailed publicly available information regarding the application and parameters of the methodology, including the use of "zeroing", would give interested parties a better understanding and thus enable them to comment more fully.

For example, while the Cohen's d -test used to identify whether a pattern of prices that differ significantly exists seems to provide predictability, more detailed information on its application would be necessary to establish its suitability.

The notice reveals that the Department relies on statistical testing only in its analysis. There are no indications that additional qualitative analysis of the facts is conducted before applying the average-to-transaction methodology. Canada notes in this context that Section 777A(d)(1)(B)(ii) of the *Tariff Act of 1930* requires the Department to "explain" why the observed differences in the pattern of prices cannot be taken into account by the average-to-average method of calculating the margin of dumping.

In the *Xanthan Gum* Issues and Decision Memorandum, the Department states that it has the discretion to apply the average-to-transaction method to all transactions or to a subset of those transactions. The Department should consider using its discretion to also make a qualitative analysis of the situation that is presented through the application

of the Cohen's d -test. Statistical analysis alone may be insufficient in complex factual situations and review of evidence concerning patterns of prices to certain customers, regions or within certain time periods may be required to validate the findings obtained through statistical analysis.

Canada appreciates the Department's willingness to receive public comments on this matter and hopes that these comments will be taken into account in the further development of the methodology.